

**AGENDA
ZONING COMMITTEE
OF THE SAINT PAUL PLANNING COMMISSION
Thursday, October 22, 2009 3:30 P.M.
City Council Chambers
Third Floor City Hall - Saint Paul, Minnesota**

NOTE: The order in which the items appear on this agenda is not necessarily the order in which they will be heard at the meeting. The Zoning Committee will determine the order of the agenda at the beginning of its meeting.

APPROVAL OF OCTOBER 8, 2009, ZONING COMMITTEE MINUTES

SITE PLAN REVIEW – List of current applications (Tom Beach, 651-266-9086)

OLD BUSINESS

- 1 09-203-521 MGM parking lot**
Modification of a previously approved site plan. The approved site plan shows a privacy fence between the MGM parking lot and the public alley. The plan under consideration does not show this fence.
1102 Larpenteur Ave W
B2
Tom Beach 651-266-9086

NEW BUSINESS

- 2 09-280-240 Dr. Lee Chen**
Variances of front yard setback for porte-cochere (25 feet required, 18 feet, 7 inches proposed), parking location in front yard within White Bear Avenue Overlay District, and sign area (48 square feet permitted, 102.3 square feet proposed)
1880 Old Hudson Road, SW Corner of Hazel
B3
Penelope Simison 651-266-6554

ADJOURNMENT

ZONING COMMITTEE MEMBERS: Call Allan Torstenson at 266-6579 or Samantha Langer at 266-6550 if you are unable to attend the meeting.

APPLICANT: You or your designated representative must attend this meeting to answer any questions that the committee may have.



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

COMMERCE BUILDING
8 Fourth St. E, Suite 200
Saint Paul, Minnesota 55101-1024

Telephone: 651-266-9090
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

SITE PLAN REVIEW COMMITTEE

TUESDAY, OCTOBER 27, 2009

2nd Floor Conference Room
375 Jackson Street, Suite 218

<u>Time</u>	<u>Project Name and Location</u>
9:30	Walgreens/Big Top Liquor at Midway Shopping Center (The City Council approved a site plan for this site plan in 2007 with a condition that staff review and approve "more detailed plans ... for stormwater drainage, sewers, water service, landscaping and lighting.")

To Applicants:

You should plan to attend this meeting.

At this meeting you will have a chance to discuss the site plan for your project with Saint Paul's Site Plan Review Committee. The Committee is made up of City staff from Zoning, Traffic, Sewers, Water, Public Works, Fire, and Parks. You are encouraged to bring your engineer, architect, or contractor with you to handle any technical questions raised by city staff.

The purpose of this meeting is to simplify the review process by letting the applicant meet with staff from a number of departments at one time. Staff will make comments and ask questions based on their review of the plans. By the end of the meeting you will know if the site plan can be approved as submitted or if revisions will be required. Staff will take minutes at the meeting and send you a copy.

DSI is in a new location

We are in our new offices at 375 Jackson Street, Suite 220. The Site Plan meetings will be held in the second floor conference room 218.

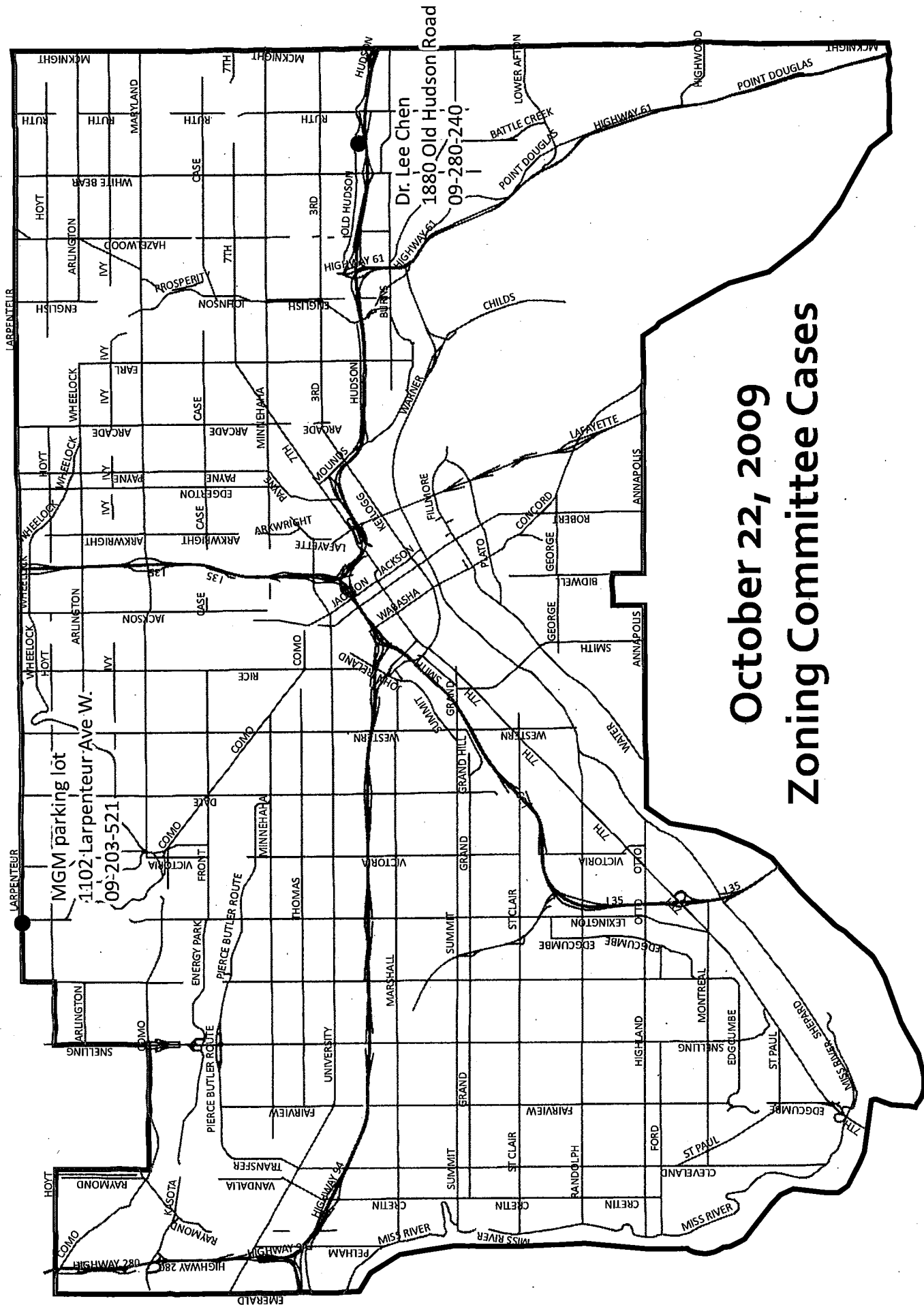
Parking

Parking is available at on-street meters.

Some off-street parking spaces are available in our visitor parking lot off of 6th Street at Jackson.

To see a map of additional nearby parking ramps go to
<http://www.ci.stpaul.mn.us/depts/dsi/liep/info/location.html>

If you have any questions, please call Mary Montgomery at 651-266-9088.



October 22, 2009
Zoning Committee Cases

PLANNING COMMISSION STAFF REPORT

FILE # 09 203521

- | | |
|--|------------------------------|
| 1. APPLICANT: MGM Properties LLC | HEARING DATE: 9/24/09 |
| 2. TYPE OF APPLICATION: Site Plan Review | |
| 3. LOCATION: 1102 Larpenteur Avenue West | |
| 4. PIN & LEGAL DESCRIPTION: 222923110186
Clifton Dale, Ramsey Co., Minn. Subj To Rd; Lots 1 Thru 5 Blk 1 | |
| 5. PLANNING DISTRICT: 10 | PRESENT ZONING: B2 |
| 6. ZONING CODE REFERENCE: 61.402.c | |
| 7. STAFF REPORT DATE: 9/17/09 | BY: Tom Beach |
| 8. DATE RECEIVED: 7/13/09 DEADLINE FOR ACTION: 11/10/09 (60 day letter was sent) | |

- A. **PURPOSE:** Site plan review for changes that were made to an existing parking lot. The applicant removed a privacy fence that was located between the parking lot and the adjacent public alley.
- B. **PARCEL SIZE:** The site of the MGM liquor store is 24,000 square feet (192' x 125'). MGM also owns the adjacent site to the west and uses it for its corporate office. The adjacent parcel covers 9,375 square feet (75' x 125') and shares the parking lot with the liquor store)
- C. **EXISTING LAND USE:** Retail store and accessory parking lot
- D. **SURROUNDING LAND USE:**
 North: Commercial (In Roseville)
 East: Commercial (B2)
 South: Single-family residential (R4)
 West: Commercial (The parcel immediately to the west has an office building that is MGM's corporate headquarters.) (B2)
- E. **ZONING CODE CITATION:**
Site Plan Review Section 61.402.c lists 11 findings that must be met in order to approve a site plan. (These findings are listed below in Section H3.)

Alley access from nonresidential property Section 63.310.f

Entrances and exits to and from all off-street parking facilities which are located on land in nonresidential zoning districts and which abut residentially zoned land across an alley shall be denied alley access except where the applicant can establish, in the review of a site plan application, that allowance of alley access would not create or aggravate an unsafe condition and one (1) or more of the following conditions exist:

1. Alternatives to alley access are unsafe due to traffic volumes, traffic speeds, proximity to an intersection, steep slopes, a blind pedestrian crossing, or some other unsafe condition;
2. The location of existing structures on the property prohibits access to the street;

3. A comprehensive plan or a neighborhood plan approved by the city council recommends that new off-street parking facilities be located in the rear of development sites or discourage additional curb cuts or driveways across sidewalks; or
4. The number of parking spaces in the off-street parking facility is seven (7) or less.

Visual screening for parking lots Section 63.313 and 63.114.4

For off-street parking facilities which adjoin or abut across an alley, a residential use or zoning district, a visual screen shall be provided and maintained as required in section 63.114, Visual screens.

When mutually agreeable to all property owners involved, a required visual screen may be located on the opposite side of an alley right-of-way from the nonresidential zone. Maintenance shall be the responsibility of the person required to erect the screen.

F. DISTRICT COUNCIL RECOMMENDATION: Staff has not heard from District 10 at the time this staff report was written.

G. FINDINGS:

1. *History* (A more detailed history can be found in the attached Court of Appeals Decision.)
 - A site plan for the existing buildings and parking lot was approved by the City in 1980.
 - The approved site plan shows an 8' high privacy fence along the south property line, between the MGM parking lot and the adjacent public alley. The fence prevented vehicular access between the MGM parking lot and the alley. The fence also provided a visual screen between the MGM parking lot and the residential property across the alley as required by Section 63.313 of the Zoning Code.
 - In February 1994, the City amended the Zoning Code to restrict access between commercial parking lots and adjacent alleys in cases where there is a residential use across the alley. Alley access is prohibited unless the applicant can demonstrate during site plan review that the plan meets conditions related to traffic safety and other issues listed in Section 63.310.f.
 - The fence remained in place until MGM removed the fence in November 2007. No City approval had been obtained to remove the fence.
 - The City received a complaint and after an inspector confirmed that the fence had been removed, the City sent a letter on November 16, 2007, to MGM ordering them to restore the fence.
 - MGM declined to restore the fence.
 - The matter went to District Court which ruled that removing the fence is permitted because there is screening on the south side of the alley and that denying MGM access to the alley constitutes a taking of the property.
 - The City appealed the matter to the Minnesota Court of Appeals which ruled that MGM should have followed the City's administrative process for obtaining alley access; the City did not exceed its authority or interfere with MGM's property rights; and MGM did not satisfy the screening requirements of the zoning ordinance.
 - MGM submitted an application for site plan review on July 13, 2009.
2. *Site plan*

The site plan submitted by MGM to the City for review does not show a fence or barrier between the parking lot and the alley. The site plan shows an area labeled "proposed access" between the parking lot and the alley. (See attached site plan.)
3. *Required findings*

Section 62.108(c) of the Zoning Code says that in "order to approve the site plan, the

planning commission shall consider and find that the site plan is consistent with" the findings listed in that section.

The site plan is not consistent with the required findings a-f:

- a. *Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets, including traffic circulation features, the locations and design of entrances and exits and parking areas within the site.*

Staff from Saint Paul Public Works Traffic Engineering reviewed the site plan and the impact on traffic safety of unrestricted access between the MGM parking lot and the adjacent alley. They concluded that it is not consistent with the safety of vehicular and pedestrian traffic. In a memo about the site plan dated September 3, 2009, Public Works staff said:

"The site plan submitted by MGM Liquor provides no pertinent traffic information regarding access, accessibility or traffic safety for this site. All that was provided was a rudimentary sketch showing full access to the abutting alley at all points along the south boundary with the alley and evidently an undefined alley/driveway access along Lexington. It is presumed that no changes are being proposed internal to the parking lot or at the access points along Larpenteur.

To address this submittal we took a look at the site access including collecting some general volume and speed information surrounding the property.

The data collected shows the alley volumes are 2 to 4 times higher than a typical residential alley and actually has more traffic, in particular at the east end of the alley, than the adjacent local streets of California and Dunlap. Traffic volumes of a local street magnitude in an alley are not acceptable from a traffic management/safety perspective as the design of an alley is narrower than a street with more limited lines of sight and a need for lower speeds to offset the potential for vehicle/vehicle conflicts with the limited sight. The open accessibility along the full length of the property allows traffic to enter the alley at any point along the alley with higher speeds aggravating the vehicle/vehicle conflict. In addition, it appears from the data that the property maybe experiencing some cutting through of traffic from Larpenteur eastbound across property to the alley which again is a traffic safety issue internal to the site and the public alley.

On the basis of the above we recommend denial of the site plan showing full access along the alley and the undefined driveway/alley access point onto Lexington."

- b. *Applicable ordinances of the City of Saint Paul.*

- 1 The site plan does not meet the conditions in Section 63.310 for alley access from nonresidential property.

This section first states that alley access is not permitted "except where the applicant can establish, in the review of a site plan application, that allowance of alley access would not create or aggravate an unsafe condition...." The applicant has not established that removing the privacy fence for the MGM parking lot meets this required condition.

In addition, alley access is not permitted unless the applicant can show that "one (1) or more of the following conditions exist": The applicant has not established that any of these conditions exist for the MGM parking lot.

- *Alternatives to alley access are not unsafe due to traffic volumes, traffic speeds, proximity to an intersection, steep slopes, a blind pedestrian crossing, or some other unsafe condition.*
- *The location of the existing structures on the property does not prohibit access to the street.*

The location of the existing structures on the site does not prohibit access to the street from either of the two existing driveways: the two-way driveway on Larpenteur and the exit only driveway on Lexington.

- *A comprehensive plan or a neighborhood plan approved by the city council recommends that new off-street parking facilities be located in the rear of development sites or discourage additional curb cuts or driveways across sidewalks.*

There is nothing in the comprehensive plan or any neighborhood plans for this area that addresses the location of parking or curb cuts for this site.

- *The number of parking spaces in the off-street parking facility is more than seven (7).*

There are 28 parking spaces in the parking lot for the MGM Liquor store. There are an additional 12 parking spaces in the adjacent parking lot for the MGM office building that would have access to the alley through the MGM Liquor store parking lot

2. The site plan does not meet the requirements for visual screening in Sections 63.313 and 63.114.4. The applicant is proposing to provide the required visual screen on the residential property across the alley. This is only permitted in cases where it is "mutually agreeable to all property owners involved." Although MGM owns most of the property across the alley, it has not demonstrated that all of the property owners across the alley have agreed to have the visual screen on their property.

- c. *Protection of adjacent and neighboring properties through reasonable provision for such matters as surface water drainage, sound and sight buffers, preservation of views, light and air, and those aspects of design which may have substantial effects on neighboring land uses.*

The privacy fence along the alley is needed to protect adjacent and neighboring properties by providing the required sound and sight buffer for the MGM parking lot.

Unrestricted access to the alley would have a substantial negative effect on neighboring land uses.

- d. *The arrangement of buildings, uses and facilities of the proposed development in order*

to assure abutting property and/or its occupants will not be unreasonably affected.

- e. *Sufficient landscaping, fences, walls and parking necessary to meet the above objectives.*

The site plan does not provide a visual screen along the alley that is needed to protect neighboring properties and required by the Zoning Code.

- f. *The city's adopted comprehensive plan and development or project plans for sub-areas of the city.*

Alley access, as proposed in the MGM site plan, is not consistent with objectives of the Transportation Chapter of the Comprehensive Plan to "mitigate the consequences of local traffic in neighborhoods" and "make neighborhood traffic control a priority." (Transportation Plan Chapter 5 Page 21)

The site plan is consistent with the findings listed below.

- g. *Preservation of unique geologic, geographic or historically significant characteristics of the city and environmentally sensitive areas.*

Removing the fence along the alley does not affect unique geologic, geographic or historically significant characteristics of the city and environmentally sensitive areas.

- h. *Creation of energy-conserving design through landscaping and location, orientation and elevation of structures.*

Removing the fence along the alley does not affect the energy conserving aspects of the parking lot.

- i. *The satisfactory availability and capacity of storm and sanitary sewers, including solutions to any drainage problems in the area of the development.*

Removing the fence along the alley does not affect the sewers or stormwater drainage of the parking lot.

- j. *Site accessibility in accordance with the provisions of the Americans with Disabilities Act (ADA), including parking spaces, passenger loading zones and accessible routes.*

Removing the fence along the alley does not affect the provisions of the Americans with Disabilities Act (ADA).

- k. *Provision for erosion and sediment control as specified in the "Ramsey Erosion Sediment and Control Handbook."*

Removing the fence along the alley does not cause issues with erosion or sediment control.

H. STAFF RECOMMENDATION:

Based on the findings G.3.(a-f), staff recommends denial of the site plan submitted by MGM Properties LLC showing the removal of the privacy fence between the MGM parking lot at 1102 Larpenteur Avenue West and the adjacent public alley.

ATTACHMENTS

- 2009 MGM site plan review application (site plan, letter and application form)
- 2009 Letter from DSI extending review time for site plan review
- 2009 Traffic memo from Public Works
- 2009 DSI enforcement letter
- 2007 DSI enforcement letter
- 1980 Approved site plan with fence along the alley
Aerial photos and location map



APPLICATION FOR SITE PLAN REVIEW

Department of Safety and Inspections (DSI)
375 Jackson Street, Suite 220
Saint Paul MN 55101-1806
651-266-9008

STAFF USE ONLY

SPR # 09-203521

Fee \$ 435

Staff meeting date: _____

City agent T. BEACH

APPLICANT

Name _____ Company MGM Properties, LLC
Address 1124 Larpentuer Avenue West
City St. Paul State MN Zip 55113
Phone 651-224-3781 Fax 651-223-8019
Email chadlemons@kellyandlemons.com

OWNER (If different than applicant)

Name _____ Company _____
Address _____ Phone _____

PROJECT

Project name / description Alley access to and from the parking lot
lying westerly of the MGM Liquor Store, 1124 Larpentuer Ave W
Project address / Location 1124 Larpentuer Avenue West southwest corner
of Lexington Avenue and Larpentuer Avenue
Legal description of the property : Lots 1, 2, 3, 4 and 5, Block 1,
Clifton Dale

Applicant's signature Chad Lemmons Attorney for Applicant Date 7/13/09

STAFF USE ONLY

Type Site Plan Sub _____ Work _____ S.F. _____

Folder Name _____

Reviewed by _____

Comments _____

(attach additional sheets if necessary)

Bond/letter of credit/escrow \$ _____ Date _____

Site plan approved by _____ Date _____

Work approved by _____ Date _____

This form and other information about site plan review are available at www.stpaul.gov/dsi. Click on Zoning, and then click on Site Plan Review.



District 10 Como Community Council
Historic Como Park Streetcar Station
1224 Lexington Parkway North
Saint Paul, MN 55103
(651) 644-3889
www.comopark.org

September 21, 2009

Ms. Samantha Langer, Zoning Secretary
Department of Safety and Inspections
25 West Fourth Street
Suite 200
Saint Paul, MN 55101-1024

Dear Ms. Langer:

I am writing on behalf of the District 10 Como Community Council to express the Council's strong opposition to the request of MGM Liquors to approve a site plan for 1102 Larpeur Avenue that provides for no fence between the property in question and the alley serving residences on California Avenue. This position reflects strong opposition that the Council has expressed in past communications about MGM's removal of the fence several years ago, which violated City code and previous agreements with neighborhood residents.

In my letter to you regarding this matter on December 26, 2007, I noted the Board's unanimous support for "rigorous and timely enforcement of the MGM Liquors site requirements as specified in city code Section 63, for parking and visual screening code compliance." We have closely monitored this situation and applaud the City's attempts to require MGM to comply.

MGM's current request to approve a site plan that would formalize MGM's original action to remove a fence that had been effective in minimizing the impact of deliveries and traffic related to MGM's operations on our neighborhood. Based upon a reaffirmation of District 10's position at its August 18, 2009 meeting, I strongly urge you to support codes intended to protect our community's neighborhoods and deny the request.

A copy of my December 26, 2007 letter is attached.

Sincerely,

David Arbeit, Chair
District 10-Como Community Council

Cc: Cecile Bedor, Director, Planning and Economic Development
Lee Helgen, City Councilman, Ward 5



District 10 Como Community Council
Historic Como Park Streetcar Station
1224 Lexington Parkway North
Saint Paul, MN 55103
(651) 644-3889
www.comopark.org

December 26, 2007

Mr. Bob Kessler, Director
Department of Safety and Inspections
8 Fourth Street East
Suite 200
Saint Paul, MN 55101-1024

Dear Mr. Kessler:

On November 12, residents in the California area of District 10 filed a complaint with the Department of Safety and Inspections concerning the removal of a fence along the alley between parking lot and the alley between California Avenue and the MGM property at 1102 Larpenteur Avenue. After inspecting the site, your office issued compliance orders on November 16, directing MGM to restore the fence by December 3 or face appropriate action by the City. As the end of the year approaches, no action appears to have been taken by MGM to address the violation.

The District 10-Como Community Council Board of Directors discussed the issue with members of the community at its November meeting and considers MGM's violation of city codes to be a serious matter. At its December 18 meeting, the Board voted unanimously to support "*rigorous and timely enforcement of the MGM Liquors site requirements as specified in city code Section 63, for parking and visual screening code compliance.*"

Larpenteur Avenue is the northern boundary of District 10, with existing commercial and high-density residential development along much of its length. The MGM case affects a relatively small area, but it has implications for similar sites abutting all residential neighborhoods. By responding rigorously and quickly, as we request, the City will signal its intent to support codes intended to protect our community's neighborhoods.

The next meeting of the Community Council will be on January 15. We would appreciate being notified of actions taken before then, hopefully with news that the problem has been resolved or is on its way to being resolved.

Sincerely,

David Arbeit, Chair
District 10-Como Community Council

September 24, 2009

Zoning Committee
Department of Planning & Economic Development
1100 City Hall Annex
25 W. Fourth Street
Saint Paul, Minnesota 55102
Attn: Gladys Morton, Chairperson

Dear Chairperson Morton:

I write with regards to MGM Properties LLC's application for a site plan review. As a resident of the neighborhood since 1995 and a block club captain representing nearly forty homes on Idaho and Dunlap since 1997, I am deeply concerned with the situation that currently exists with cut-through traffic in the neighborhood. Due to this existing problem, I believe MGM's desire to open the alley to nonresidential traffic would fundamentally alter the function of the alley by creating a secondary commercial artery. This proposed change would dramatically aggravate safety concerns that have existed since MGM unilaterally removed the fence during a city holiday nearly two years ago.

Neighbors have reported numerous close calls while attempting to exit garages that abut the alley. Additionally, traffic and street parking is already congested where the alley connects with Dunlap. This proposed change would aggravate the situation, especially during afternoon rush hour traffic when neighbors are coming home, cut through traffic is at its peak, and alley traffic to MGM may also be at a peak.

As a former board member of the District 10 Council, former Land Use Committee Co-chair, two-time member of the CIB Streets and Utilities Task Force, and an author of Como Park's neighborhood plan, I can assure you that this proposal is not supported by an overwhelming majority of the residential community and likely faces opposition from MGM's commercial neighbors. A key principle in the neighborhood plan is to retain the residential character of Como Park. Turning the alley north of California Avenue into a commercial artery would profoundly conflict with that principle.

The application submitted for site plan review does not appear to meet any of the Zoning Committee's requirements. As a Humphrey graduate with a concentration in economic development, the submitted revised site plan is far from detailed. At the very least, the site plan should attempt to address the safety issues of surrounding traffic flow and visibility. As per item (1) of Zoning Code Section 63.310, I believe that MGM will assert that alley access reduces traffic issues along Larpeur. I believe this change will merely extend the boundaries of the traffic problems into the residential community and dangerously aggravate already existing safety concerns.

Items (2), regarding current existing structures, and (4), regarding parking spaces, are not applicable arguments for MGM's application. Item (3), regarding compliance with comprehensive and neighborhood plans, is not applicable either as commercial parking and access is allowable from Larpeur and is consistent with the neighboring businesses.

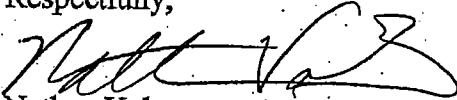
This is a very technical debate over what really boils down to a fence: A fence that was constructed when the property was constructed, with the compliance of MGM, in recognition and respect for city codes. Since the city's fence was removed by MGM, the neighborhood has been adversely affected. Just two weeks ago, I saw two cars exiting the alley illegally onto Lexington, one turning right, the other, right next to it, turning left. At least when the fence was in place, it was only possible for one driver to break the law at a time.

Public officials are often criticized for the tough decisions they make and are rarely recognized for the fortuitous decisions they make on a daily basis. The requirement of a fence to separate commercial and residential traffic in the alley north of California was one of those fortuitous and brilliant decisions and the wisdom and intent of that decision should be upheld.

Supporting alley access for commercial traffic would move us in the wrong direction down a dangerous path. I respectfully request that MGM's request for commercial alley access be denied and that MGM be required to replace the city's fence in its former location.

I thank you for your time and effort and for considering the neighbors on this serious matter.

Respectfully,



Nathan Volz
1623 Dunlap St. North
St. Paul, MN 55108

Tom Beach - Fwd: mgm zoning meeting

From: Samantha Langer
To: Beach, Tom
Date: 9/23/2009 11:39 AM
Subject: Fwd: mgm zoning meeting

I received another letter

>>> On 9/23/2009 at 11:34 AM, in message <BAY107-W1035A9CC3C48558331BC72BEDB0@phx.gbl>, Nick <pizzuti@hotmail.com> wrote:

Hi Samantha,

Could you include this letter with comments/concerns for the September 24th zoning committee meeting? I have some photos of beer trucks blocking the alley I'd like to submit as well, however I'm at work...but I can send them tonight if that's OK.

Thanks!

Dear Zoning Committee:

I am a resident of California Avenue North in St. Paul. My alley shares the alleyway with MGM Liquors. I just wanted to address some concerns I have with MGM's removal of their fence. First off, there is a lot more traffic heading down the alley. In both directions. I notice cars using the alley from the west and farthest end of the alley to get to the liquor store. There are beer trucks that use the alley as well. I also notice traffic backed up on Larpen Avenue cutting through MGM and the alley to turn right on Lexington Avenue. It makes backing out of our garage difficult and dangerous. I am also finding liquor bottles left in the grass near our garage.

One main concern I have is the beer trucks blocking the alleyway. I have confronted beer truck drivers on two occasions. Both times they refused to move until I threatened to call the police. After that, they moved their trucks into the MGM parking lot. There is a parking strip behind MGM that they can use without blocking the alley, however, they continue to block the alley if there is a truck already there. I have photos of this and can attach them to a following email.

My recommendation would be to have MGM put back the fence. It's as simple as that. However, they continue to disregard the residents of California Avenue and challenge the City of St. Paul. Even after meeting with representatives from MGM and expressing our opposition to the fence removal, they lied to the residents and removed it anyway. MGM Liquors are not good neighbors to the residents of California Avenue and the City of St. Paul.

Thank you for your time,

n

p.s. if possible, please don't include my name with this letter, I am afraid of retribution from MGM.

Nick Clausen
1153 California Ave W
St. Paul, MN 55108

Tom Beach - Fwd: MGM Propsed Changes/Alley Access

From: Samantha Langer
To: Beach, Tom
Date: 9/21/2009 8:09 AM
Subject: Fwd: MGM Propsed Changes/Alley Access

Hi - I received this e-mail regarding MGM. I will make copies to take to the Zoning meeting.

Sam

>>> On 9/21/2009 at 8:06 AM, in message <Gophermail.2.0.0909210806040.1083@vs-w.tc.umn.edu>, <burg0128@umn.edu> wrote:

Dear Samantha,

My name is Chad Burgess and I am writing concerning the proposed changes in MGM parking in Saint Paul on the corner of Larpenteur and Lexington. I own 1133 California Ave W and unfortunately have to deal with traffic caused by not having the fences disrupt their lot from the alley. The following is a list of my concerns.

- This alley is not wide enough to accommodate two way traffic.
- There are a few guests of MGM's whom use this alley currently and do so at a rate of speed not appropriate to its size, and there is of course no police presence in an alley.
- The alley is not paved or maintained for a high level of traffic. It is meant and was built for owners of the homes for garage access. Which pay taxes for this privilege.
- During heavy snows it takes considerable time to clean the alley if at all.
- There is a high level of "MGM trash" (Bags, empty cans and bottles) that is tossed into alley and lawns by some of their guests. I have yet to see MGM employees make an effort to clean up anything past this lot. (The persons I have seen tossing an empty can out their window just a few lots over from the store are a whole other concern.)
- Overall this alley should not be officially opened for business access it does not allow for the traffic, difficult and expensive to be monitored by the St. Paul Police (whom have more important issues to tend to I hope anyway), and the business does not show the sense of community responsibility necessary to appropriately help care for the space.

Thank you for your time.

Sincerely,
Chad Burgess

Kelly & Lemmons, P.A.

ATTORNEYS AT LAW

OF COUNSEL:

McGUIGAN & HOLLY, PLC

• Chad D. Lemmons

chadlemmons@kellyandlemons.com

Real Property Law Specialist, Certified by the Real
Property Section of the Minnesota State Bar Association

July 13, 2009

Ms. Corinne A. Tilley
DSI Inspector-Zoning
City of St. Paul
375 Jackson Street, Suite 220
St. Paul, MN 55101

VIA U.S. MAIL

RE: MGM Liquor Warehouse at 1102 Larpentuer Avenue West

Dear Ms. Tilley:

Enclosed herewith please find the Application for Site Plan Review, a copy of the proposed Site Plan and a check in the amount of \$435.00 in full payment of the Application fee. The area which MGM proposes to use as means of access from their parking lot to the alley is that area marked in Blue. However, it is my understanding that the portion of the paved area lying north of the boundary line and south of the building immediately adjacent to Lexington Avenue would still be entry only.

It is our position that the Minnesota Court of Appeals Decision filed June 2, 2009 does not require MGM to provide an explanation of compliance with Zoning Code Section 63.310(f). Therefore, none will be provided.

MGM does not intend to restore the fence which existing along its south boundary line. It is still MGM's position that the fence located along the south boundary line of the alley satisfies the screening required by St. Paul Legislative Code Section 63.313. In addition, MGM has complied with the requirements of St. Paul Legislative Code Section 63.114(b)(4). This position is again supported by the Decision of the Minnesota Court of Appeals filed June 2, 2009.

If you have any questions regarding this matter, please feel free to contact me.

Respectfully yours,

KELLY & LEMMONS, P.A.



Chad D. Lemmons

CDL/smk
Enclosures



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220
St Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

September 4, 2009

Chad D. Lemmons
Kelly & Lemmons PA
7300 Hudson Boulevard North Suite 200
Saint Paul MN 55128

RE: Site Plan 09-203521
MGM parking lot at 1102 Larpenieur Avenue West

Dear Mr. Lemmons:

On July 13, 2009, MGM Properties submitted a site plan to the City for the parking lot for the MGM store at 1102 Larpenieur Avenue West.

This letter is to inform you that City staff intends to send the site plan to the Planning Commission for a public hearing and that staff is extending the time allowed for the review of the site plan under Minn. Stat. 15.99 (1995)

Public hearing at the Planning Commission

The Planning Commission has delegated most site plan reviews to the Zoning Administrator. However, in 2004 the Planning Commission adopted a resolution on the Site Plan Review process which says: "An individual site plan application should be brought to the Planning Commission if ... any staff decision will probably be appealed to the Planning Commission." It goes on to say "When a site plan application is brought to the Planning Commission, the Zoning Code requires a public hearing. Public hearings will be held at the Zoning Committee unless the 60 or 120-day deadline in state law forces the City to save time and go directly to the full Planning Commission for a public hearing and a vote on the same day."

Based on this, a public hearing at the Planning Commission has been scheduled for Friday, September 18, 2009

A copy of the Planning Commissions' resolution is enclosed.

Extension of time for review of site plan

Minnesota law gives the City 60 days to complete its review of a zoning application but allows the City to "extend the time line ... by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant." Minn. Stat. 15.99 (1995)

This letter is to inform you that the City is extending the site plan review period for an additional 60 days to Tuesday, November 10, 2009. This extension is needed to provide time for the public hearing on the site plan at the Planning Commission and a possible appeal of the Planning Commission's decision to the City Council.

If you have any questions, you can reach me at 651-266-9086 or tom.beach@ci.stpaul.mn.us.

Sincerely,

Tom Beach
Zoning and Site Plan Review

Tom Beach - MGM Site Plan Comments

From: Monica Beeman
To: Tom Beach
Date: 9/3/2009 3:28 PM
Subject: MGM Site Plan Comments
CC: Linda Murphy
Attachments: LexLarpenteur.pdf

Tom,

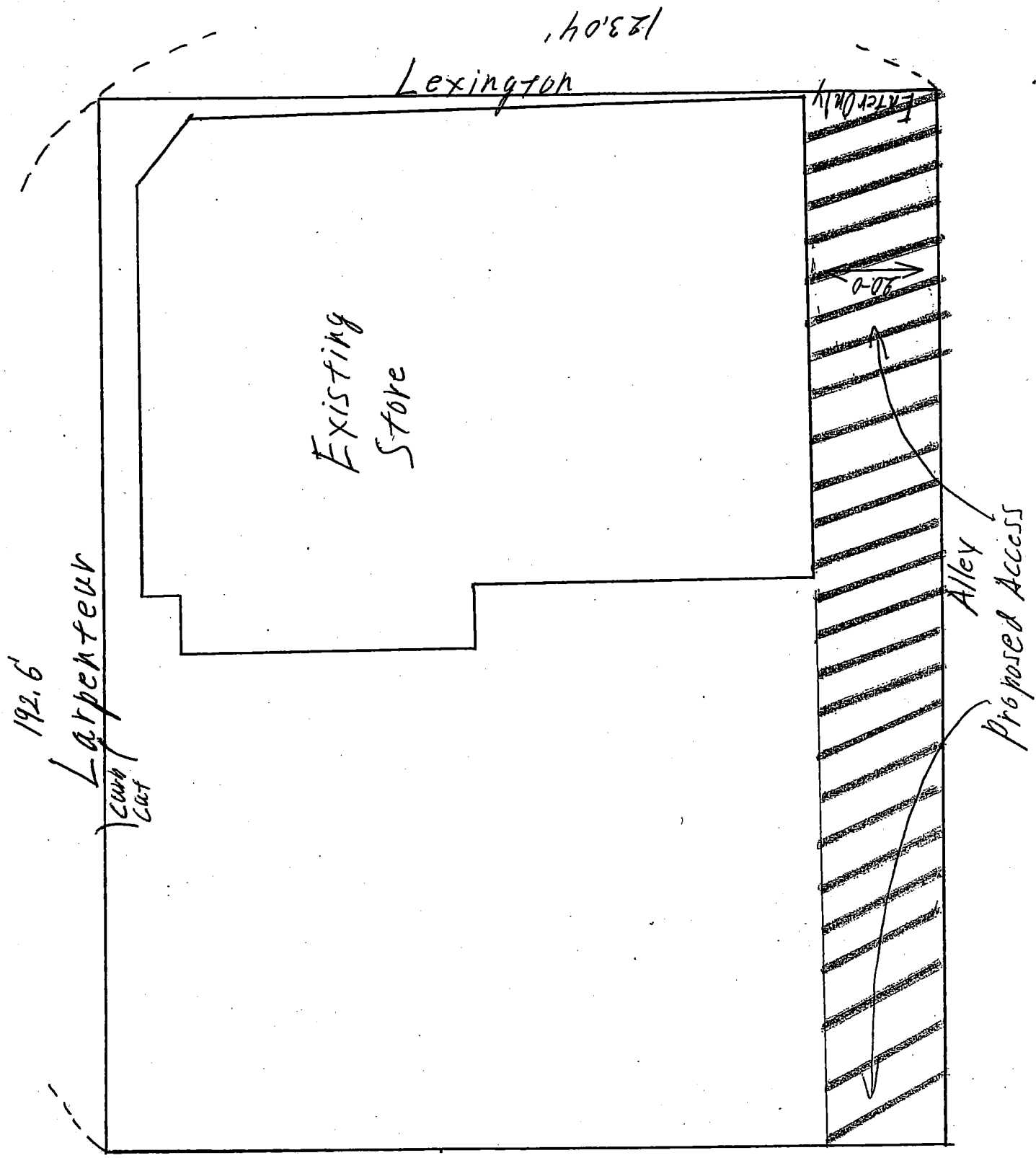
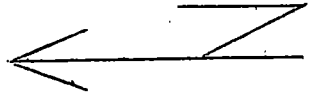
The site plan submitted by MGM Liquor provides no pertinent traffic information regarding access, accessibility or traffic safety for this site. All that was provided was a rudimentary sketch showing full access to the abutting alley at all points along the south boundary with the alley and evidently an undefined alley/driveway access along Lexington. It is presumed that no changes are being proposed internal to the parking lot or at the access points along Larpenteur.

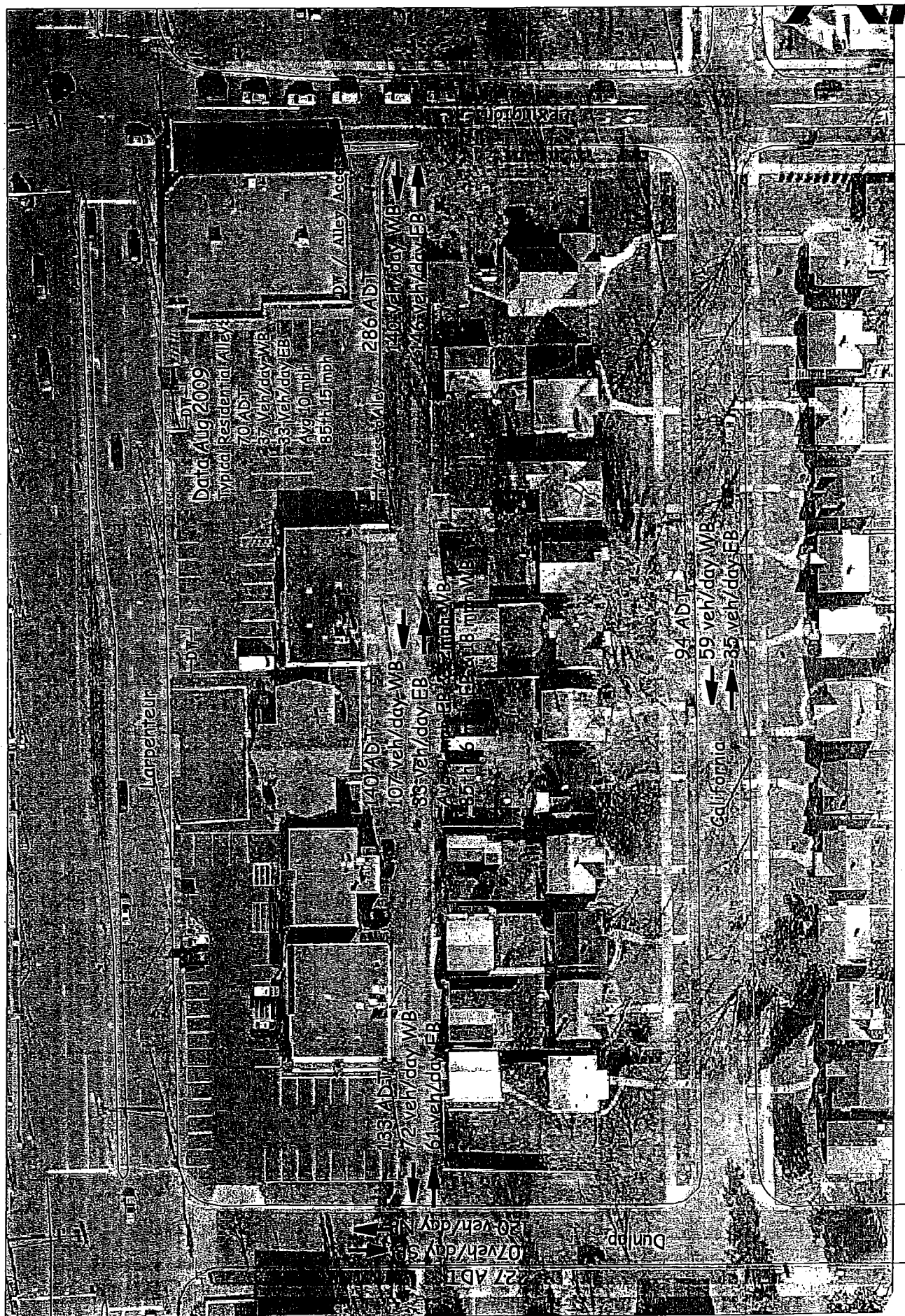
To address this submittal we took a look at the site access including collecting some general volume and speed information surrounding the property.

The data collected shows the alley volumes are 2 to 4 times higher than a typical residential alley and actually has more traffic, in particular at the east end of the alley, than the adjacent local streets of California and Dunlap. Traffic volumes of a local street magnitude in an alley are not acceptable from a traffic management/ safety perspective as the design of an alley is narrower than a street with more limited lines of sight and a need for lower speeds to offset the potential for vehicle/vehicle conflicts with the limited sight. The open accessibility along the full length of the property allows traffic to enter the alley at any point along the alley with higher speeds aggravating the vehicle/vehicle conflict. In addition, it appears from the data that the property maybe experiencing some cutting through of traffic from Larpenteur eastbound across property to the alley which again is a traffic safety issue internal to the site and the public alley.

On the basis of the above we recommend denial of the site plan showing full access along the alley and the undefined driveway/alley access point onto Lexington.

Monica M. Beeman, PE
Department of Public Works
Civil IV, Traffic Engineering
800 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102-1660
(651) 266-6214







CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220
St Paul, Minnesota 55101-1806

Telephone: 651-266-9090
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

July 6, 2009

COPY

Mr. Paul Setter
MGM Properties LLC
1124 Larpenteur Ave W
St Paul MN 55113-6317

RE: MGM Liquor Warehouse at 1102 Larpenteur Avenue West

Dear Mr. Setter:

In reference to the decision issued by the Minnesota Court of Appeals on June 2, 2009 regarding the parking lot fence at the referenced location, this letter is to formally notify you of actions you will need to take to bring the site into compliance with the City of Saint Paul's Zoning Code.

- **Restore the fence**

Restore the fence as shown on the approved site plan for the construction of this site dated June 18, 1980. The fence must be in place by July 14, 2009.

- A fence permit from the Department of Safety and Inspections (651-266-9007) is required.

- **Submit a revised site plan**

If you decide not to restore the fence as shown on the approved site plan dated June 18, 1980, you must submit a site plan review application requesting to amend the 1980 approved site plan by July 14, 2009. A site plan review application packet is enclosed for your reference.

The following items must be included with the submittal of the site plan review application:

- An application fee of \$435.00.
- A detailed, revised site plan.
- An explanation of compliance with Zoning Code Section 63.310(f) for alley access from nonresidential property, which states that entrances and exits to and from all off-street parking facilities which are located on land in nonresidential zoning districts and which abut residentially zoned land across an alley shall be denied alley access except where the applicant can establish, in the review of a site plan application, that allowance of alley access would not create or aggravate an unsafe condition and one (1) or more of the following conditions exist:
 - (1) Alternatives to alley access are unsafe due to traffic volumes, traffic speeds, proximity to an intersection, steep slopes, a blind pedestrian crossing, or some other unsafe condition;
 - (2) The location of existing structures on the property prohibits access to the street;

July 6, 2009

(3) A comprehensive plan or a neighborhood plan approved by the city council recommends that new off-street parking facilities be located in the rear of development sites or discourage additional curb cuts or driveways across sidewalks; or

(4) The number of parking spaces in the off-street parking facility is seven (7) or less.

Note: A notice will be sent to adjacent property owners located within 350 feet of the proposed alley access and opportunity for them to comment shall be provided.

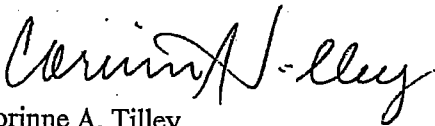
*If you claim that item (1) exists, a traffic impact study is required.

- Zoning Code Section 63.313 Visual screening, states that for off-street parking facilities which adjoin or abut across an alley, a residential use or zoning district, a visual screen shall be provided and maintained as required in section 63.114. However, Section 63.114(b)(4) says that when mutually agreeable to all property owners involved, a required visual screen may be located on the opposite side of an alley right-of-way from the non residential zone. Maintenance shall be the responsibility of the person required to erect the screen. Submit proof of agreement with property owners.

You may appeal this order and obtain a hearing before the Board of Zoning Appeals by filing an Application for Appeal and paying the application fees to the Zoning Administrator within (10) days of the date these orders were mailed. The Application for Appeal may be obtained from the Zoning Administrator's Office at 375 Jackson Street, Suite 220, Saint Paul MN 55101-1806.

If you have any questions regarding this matter, please contact me at 651-266-9085 (office) or corinne.tilley@ci.stpaul.mn.us (email).

Regards,



Corinne A. Tilley
DSI Inspector - Zoning

Enclosures

Copy: Council Member Lee Helgen
City Attorney Rachel Tierney
DSI Director Bob Kessler
DSI Deputy Director Christine Rozek
DSI Zoning Manager Wendy Lane



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

COMMERCE BUILDING
8 Fourth Street East, Suite 200
St Paul, Minnesota 55101-1024

Telephone: 651-266-9090
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

November 16, 2007

Mr. Paul Setter
MGM Liquor Stores Inc.
1124 Larpeur Avenue West
Saint Paul MN 55113

RE: Response to complaint and field inspection results on the property located at 1102 Larpeur Avenue West

Mr. Setter:

It has come to my attention that a complaint was registered (07-198285) regarding a fence that was removed from the property located at 1102 Larpeur Avenue West. Upon review of this property, I have come to the conclusion that the fence must be replaced immediately.

This letter serves as a written followup detailing the results of my field inspection at 1102 Larpeur Avenue West and my visit with you at your corporate office located at 1124 Larpeur Avenue West.

During my field inspection on Thursday, November 15, 2007, I visually confirmed that the obscuring fence extending from the MGM corporate office building to a point five (5) feet from the property line at Lexington Parkway, has been removed and new asphalt has been poured covering all fence posts.

Immediately after my field inspection, I met with you at the MGM corporate office and handed you a copy of a 3-page letter, dated January 21, 1980, from Edward J. Driscoll for Larkin, Hoffman, Daly & Lindgren LTD to Mr. and Mrs. Frances C. Gillen, residents of a neighboring property located at 1105 California Avenue West. The letter is a written confirmation of an understanding between Richard Larson (the architect employed by MGM), Mr. Driscoll, Mr. and Mrs. Gillen and Mr. and Mrs. Elvester. One of the items agreed upon is an eight (8) foot cedar fence. You stated that since those constituents are no longer residents of California Avenue, the agreement is no longer valid.

I stated that according to the zoning code, a fence must be provided when a parking lot is located across the alley from a residential use.

You stated that the zoning code does not specify on which side of the alley the fence must be erected. You also stated that MGM had an agreement with the neighboring residents to build the fence along their lots. Therefore, you feel the fence on the residents' property is sufficient. You stated that you do not have a copy of this agreement.

The following specific sections in the Zoning code will clarify the fence requirement and its location:

Sec. 63.301. Off-street parking facility standards and design.

Wherever the off-street parking requirements in article II, parking requirements, of this chapter require the building of an off-street facility, or where a VP vehicular parking district is provided, or

where any off-street parking facility is built, such off-street parking facilities shall be laid out, constructed and maintained in accordance with the following standards and design.

This section defines MGM's parking lot is an off street facility that shall be laid out, constructed and maintained in accordance with the following standards and design.

Sec. 63.304. Parking location, nonresidential.

Off-street parking for other than residential use shall be either:

(a) On the same zoning lot as the building it is intended to serve;

This section defines that MGM's off-street parking must be on the same zoning lot as the building it is intended to serve.

Sec. 63.313. Visual screening.

For off-street parking facilities which adjoin or abut across an alley, a residential use or zoning district, a visual screen shall be provided and maintained as required in section 63.114, Visual screens.

This section defines that MGM's off-street parking facility which happens to abut across an alley of a residential use and zoning district must provide a visual screen.

Sec. 63.114/ Visual screens.

(a) Wherever a visual screen is required by this code, it shall be of sufficient height and density to visually separate the screened activity from adjacent property. The screen may consist of various fence materials, earth berms, plant materials or a combination thereof.

(4) When mutually agreeable to all property owners involved, a required visual screen may be located on the opposite side of an alley right-of-way from the nonresidential zone. Maintenance shall be the responsibility of the person required to erect the screen.

This section defines that the fence, as stated by you, was erected by MGM as agreed upon by the property owners involved. The written agreement can not be found.

As of today, according to all the existing property owners involved, they do not mutually agree to a required visual screen located on the opposite side of an alley right-of-way from the non residential zone.

I have enclosed a copy of the parking facility chapter from the Zoning Code and highlighted the specific sections.

In addition, I've enclosed a copy of the approved site plan from June 18, 1980, for the construction of the MGM building. As shown, an eight (8) foot high cedar fence from MGM's corporate office building extends up to Lexington Parkway. The east ten (10) feet of that fence is two (2) feet, six (6) inches high for intersection visibility.

MGM's removal of the fence has created a parking lot that no longer conforms to the standards of a parking facility in the City of Saint Paul. The fence that was removed must be replaced.

Failure to comply with this order before December 3, 2007, will result in further legal actions including criminal citations to all responsible parties, possible adverse action against the business license, and / or possible revocation of the certificate of occupancy.

Should you have any questions or concerns regarding this matter, please contact me at 651-266-9085 (phone), 651-298-4194 (fax), or corinne.tilley@ci.stpaul.mn.us (email).

Regards,

A handwritten signature in cursive script, reading "Corinne A. Tilley".

Corinne A. Tilley
DSI Zoning and Site Plan Review

Enclosures

Copied: Council Member Lee Helgen
DSI Director Bob Kessler

ARTICLE III. 63.300. OFF-STREET PARKING FACILITY STANDARDS AND DESIGN

Sec. 63.301. Off-street parking facility standards and design.

Wherever the off-street parking requirements in article II, parking requirements, of this chapter require the building of an off-street facility, or where a VP vehicular parking district is provided, or where any off-street parking facility is built, such off-street parking facilities shall be laid out, constructed and maintained in accordance with the following standards and design:

Sec. 63.302. Site plan review.

A site plan shall be submitted for review as outlined in section 61.402. In addition, the following shall be submitted:

- (a) Ownership of all lots or parcels intended for use as parking;
- (b) Indication of all structures or facilities to be served by the off-street parking facility; and
- (c) Location and direction of drainage for stormwater runoff.

Applications for building permits that involve changing any parking space to another use shall include the following information:

- (1) All uses, structures or facilities served by such off-street parking spaces;
- (2) Total number of parking spaces accessory to such uses, structures or facilities; and
- (3) Number of parking spaces proposed to be changed to another use.

Sec. 63.303. Parking location, residential.

Residential off-street parking shall consist of an off-street parking facility or parking spaces as defined in this code. Parking spaces for one- and two-family dwelling units shall be located on the same zoning lot that they are intended to serve. Parking spaces for buildings containing three (3) or more dwelling units shall be on the same zoning lot, in a VP vehicular parking district, or in an abutting zoning lot in the same or less restrictive zoning district.

Sec. 63.304. Parking location, nonresidential.

Off-street parking for other than residential use shall be either:

- (a) On the same zoning lot as the building it is intended to serve; or
- (b) In a VP vehicular parking district or within the same or a less restrictive zoning district as the principal use. This parking shall be located within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot; or
- (c) Part of a shared commercial parking arrangement in an institutional lot pursuant to section 65.732.

Sec. 63.305. Minimum layout dimensions.

Pattern	Parking Space Width	Parking Space Length	Maneuvering Lane Width
Parallel Parking	8 ft.	21 ft.	12 ft.
30 - 53	8 ft., 6 in.	18 ft.	12 ft.
54 - 74	8 ft., 6 in.	18 ft.	15 ft.
75 - 90	9 ft.	18 ft.	20 ft.

INSET: Parking Space Pattern

Sec. 63.306. Compact spaces.

Accessory parking facilities may designate up to fifty (50) percent of the spaces for compact cars only, in which case, the minimum layout dimensions may be reduced to eight (8) feet in width and sixteen (16) feet in length. Compact spaces shall be designated by signs with a minimum of one (1) sign per every four (4) compact spaces.

Commercial parking facilities may designate any number of compact parking spaces.

Sec. 63.307. Handicapped accessible parking spaces.

Parking spaces for the handicapped shall be designed in accordance with the provisions of the Accessibility Guidelines for Buildings and Facilities of the Americans with Disabilities Act (ADA).

Sec. 63.308. Maneuvering lanes.

Except as provided in section 63.309, access to any parking space for a use other than one- or two-family

structures shall be provided by a maneuvering lane. All off-street parking facilities shall be designed so that any vehicle leaving or entering the facility from or onto a public street shall be traveling forward.

Sec. 63.309. Stacked parking.

Stacked parking shall be allowed in any off-street parking facility whenever an attendant is present. Space for any maneuvering of vehicles must be provided in the attended parking facility.

Sec. 63.310. Entrances and exits.

Adequate entrances and exits to and from the parking facility shall be provided by means of clearly defined and limited drives.

(a) Entrances and exits to and from a parking facility on residentially zoned land shall not be across land in a more restrictive residential zoning district.

(b) Entrances and exits to and from a parking facility in a commercial or industrial zoning district shall not be across land in a residential district.

(c) Entrances and exits to and from all parking facilities located in land zoned other than RL--RT2 shall be at least twenty-five (25) feet from any adjoining property in RL--RT2 zoning districts.

(d) Entrances and exits to and from a parking facility shall be at least thirty (30) feet from the point of intersection of curblines of two (2) or more intersecting streets.

(e) Alley access from residential property. Entrances and exits to and from all off-street parking facilities located on land zoned for residential use shall be permitted access to an alley except where it is determined in the review of a site plan application that permitting alley access may be harmful to the public peace, health and safety.

Uses prohibited alley access elsewhere in the zoning code shall not be permitted alley access by the provisions of this section.

~~Alley access from nonresidential property.~~ Entrances and exits to and from all off-street parking facilities which are located on land in nonresidential zoning districts and which abut residentially zoned land across an alley shall be denied alley access except where the applicant can establish, in the review of a site plan application, that allowance of alley access would not create or aggravate an unsafe condition and one (1) or more of the following conditions exist:

(1) Alternatives to alley access are unsafe due to traffic volumes, traffic speeds, proximity to an intersection, steep slopes, a blind pedestrian crossing, or some other unsafe condition;

(2) The location of existing structures on the property prohibits access to the street;

(3) A comprehensive plan or a neighborhood plan approved by the city council recommends that new off-street parking facilities be located in the rear of development sites or discourage additional curb cuts or driveways across sidewalks; or

(4) The number of parking spaces in the off-street parking facility is seven (7) or less.

~~If a new alley access is proposed which will serve eight (8) or more parking spaces, notice to adjacent property owners and opportunity for them to comment shall be provided in the manner set forth in section 61.402(b)(5). Decisions to grant or deny alley access are subject to appeal pursuant to the provisions of section 61.700.~~

Uses prohibited alley access elsewhere in the zoning code shall not be permitted alley access by the provisions of this section.

Sec. 63.311. Wheel stops.

Provisions shall be made by use of such devices as curbs, wheel stops and earth berms to prevent vehicles from damaging or overhanging adjacent property, public rights-of-way or required landscaping.

Sec. 63.312. Setback.

Except as otherwise provided in section 66.442(c) or section 66.431(b) off-street parking spaces shall not be within a required front or side yard and shall be a minimum of four (4) feet from any lot line. For housing on Irvine Avenue, a guest parking space may be provided on the driveway or elsewhere. If it is provided elsewhere, a guest parking area is exempt from setback requirements for parking spaces and it may be paved with gravel.

Sec. 63.313. Visual screening.

For off-street parking facilities which adjoin or abut across an alley, a residential use or zoning district, a visual screen shall be provided and maintained as required in section 63.114, Visual screens.

Sec. 63.314. Landscaping.

For any parking facility, other than a parking garage, landscaping shall be provided to buffer the facility from adjacent properties and from the public right-of-way; reduce the visual glare and heat effects of large expanses of pavement; and provide areas for the retention and absorption of stormwater runoff. All required

Sec. 63.114. Visual screens.

(a) Wherever a visual screen is required by this code, it shall be of sufficient height and density to visually separate the screened activity from adjacent property. The screen may consist of various fence materials, earth berms, plant materials or a combination thereof.

(b) Whenever visual screens are required, for the uses below, the following standards shall apply.

(1) Height regulations:

Use	Minimum Height	Maximum Height
Off-street parking	4 ft. 6 in.	6.5 ft.
Outdoor storage	6 ft.	--
Recycling drop-off station	6 ft.	--
Recycling collection center	6 ft.	--
Recycling processing center	8 ft.	--
Motor vehicle salvage operation	8 ft.	--
Hospital, ambulance and delivery areas	6 ft.	8.0 ft.
Utility building, stations and substations	6 ft.	8.0 ft.

(2) Visual screens shall be located completely within the lot line.

(3) Visual screen locations shall conform with front yard setback lines in residential districts.

(4) When mutually agreeable to all property owners involved, a required visual screen may be located on the opposite side of an alley right-of-way from the nonresidential zone. Maintenance shall be the responsibility of the person required to erect the screen.

(5) The land between the screen and the property line shall be landscaped and maintained so that all plant materials are healthy and that the area is free from refuse and debris.

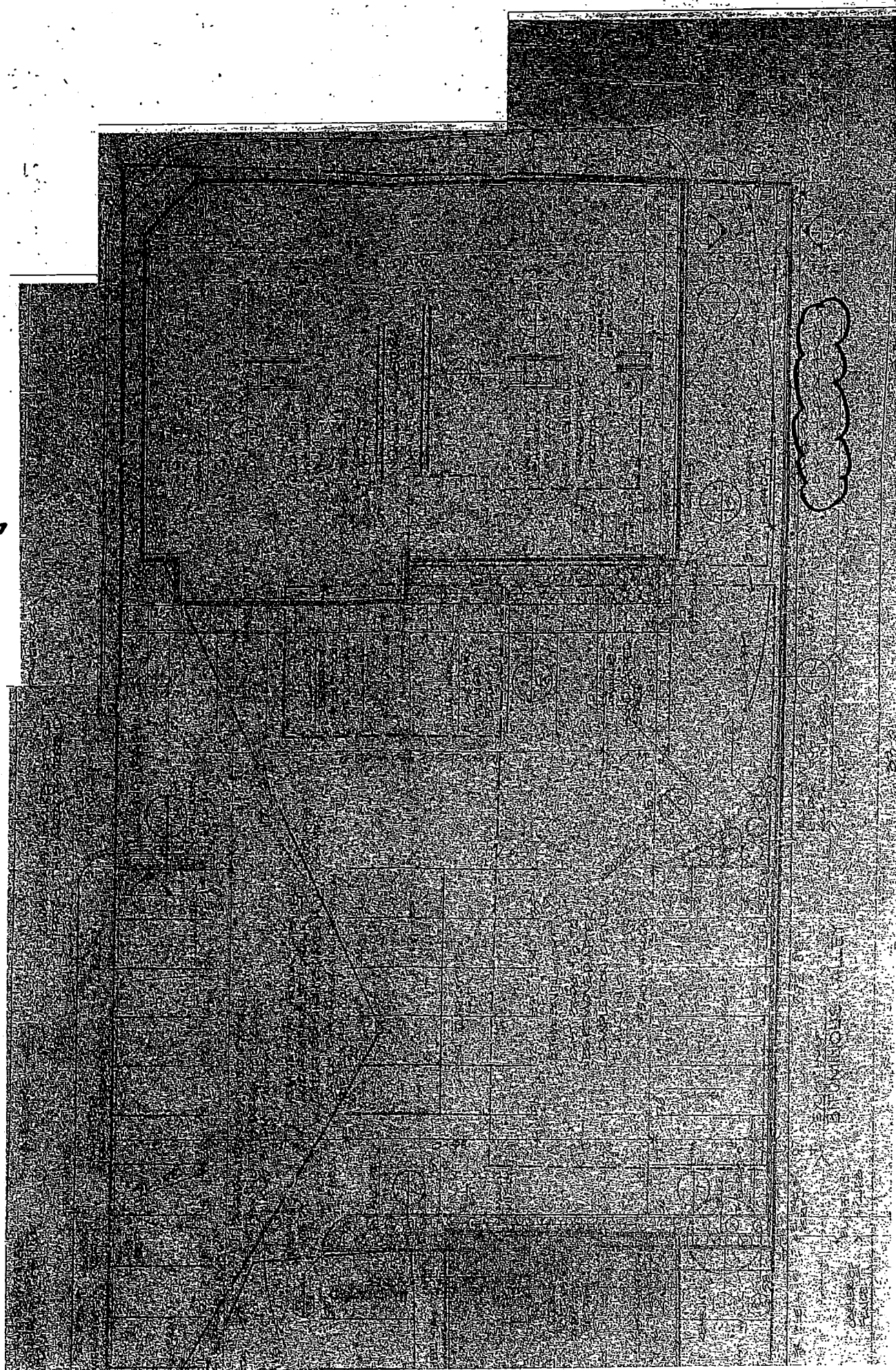
(6) Required visual screens shall have no openings for pedestrians or vehicles except as shown on an approved site plan.

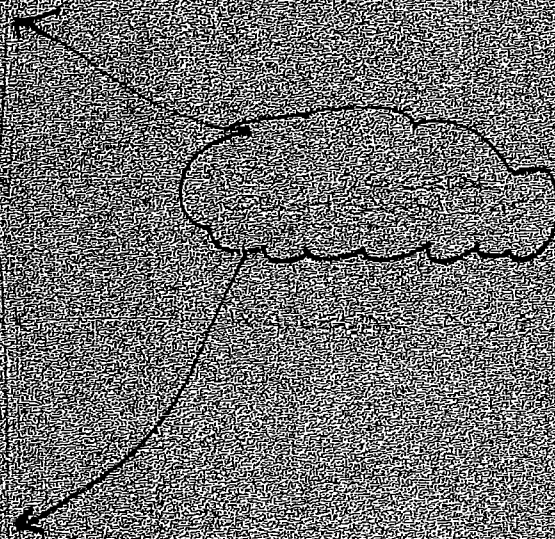
(7) Visual screens shall be maintained in a good state of repair.

(8) In all cases where a required visual screen would extend to an alley or street which is an entrance to or exit from an off-street parking facility, it shall be permissible to end the visual screen not more than ten (10) feet from such alley line or street line.

(9) For multifamily structures with ten (10) or more units, office, commercial and industrial uses, garbage dumpsters and trash containers shall be located to the rear of the principal building and enclosed by a visual screen.

1980 MGM site plan showing 8' privacy fence
along the alley





Detail from 1980 site plan
showing privacy fence.

GISmo Oblique Photography

Images courtesy of: Microsoft® Virtual Earth™ 2006

☒ Show Dashboard ☒ Show Reference Map

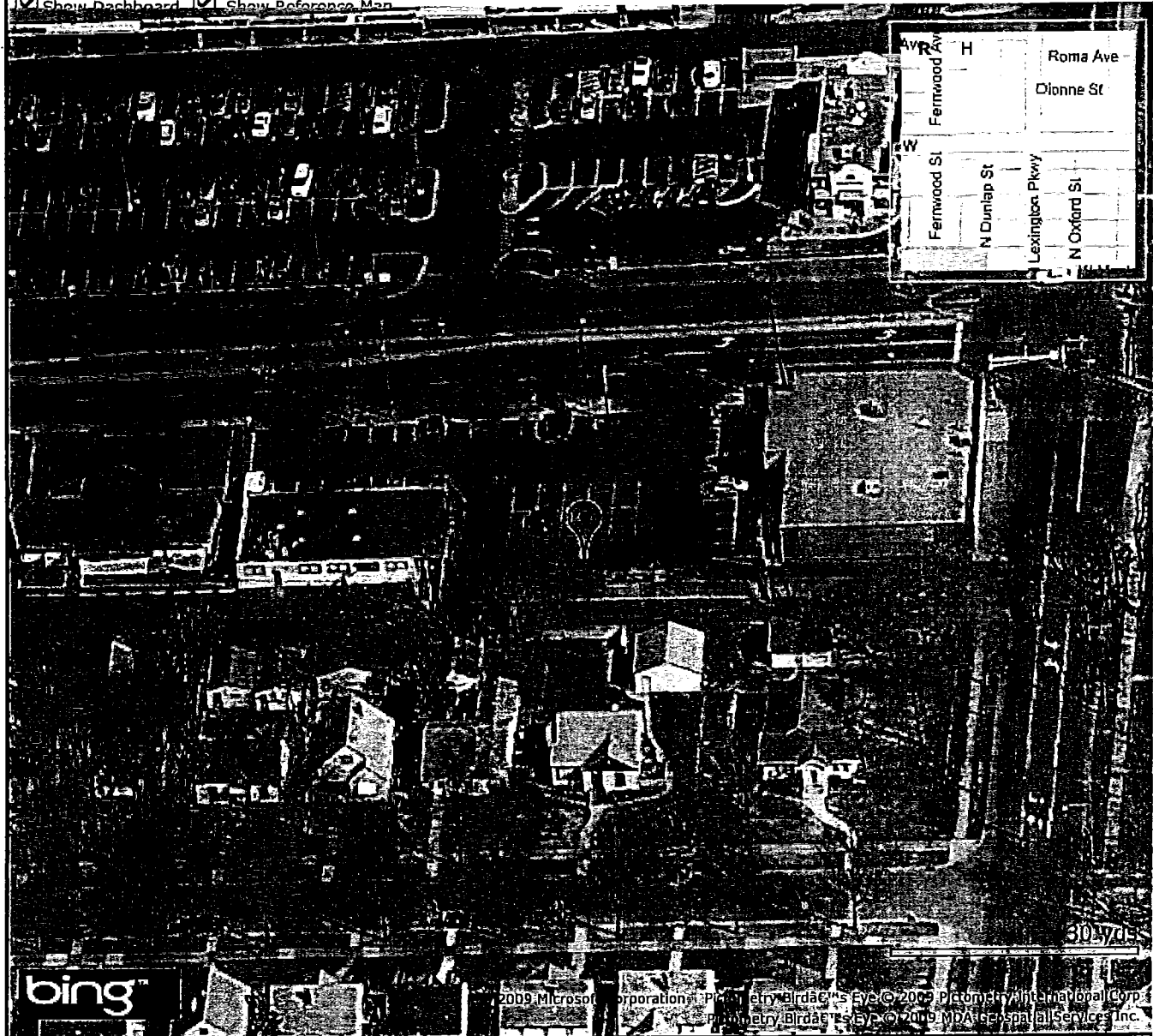
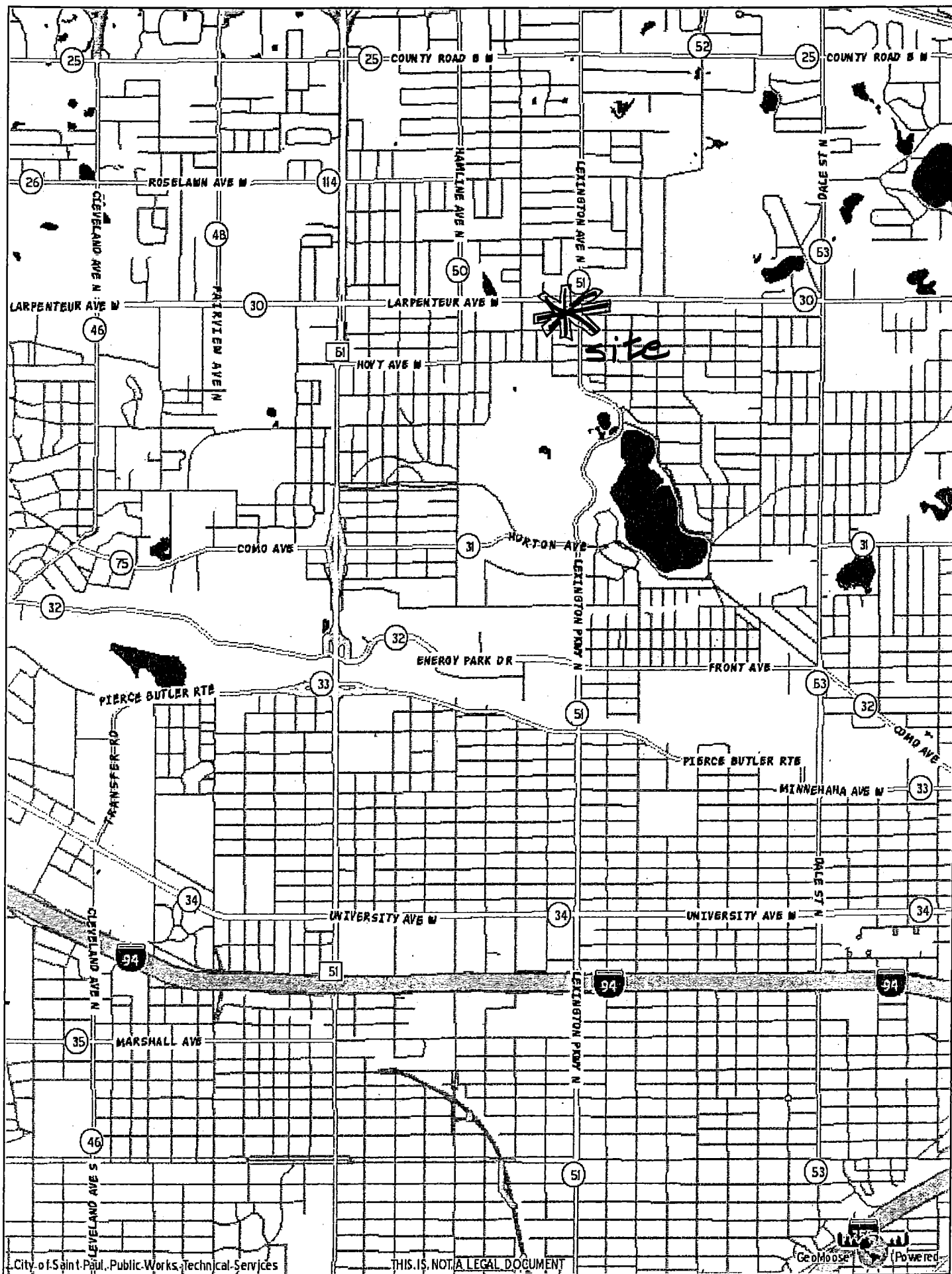


Photo taken before
fence along the alley
was removed.

↑
North



ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Lee Chen **FILE #:** 09-280-240
 2. **APPLICANT:** Lee Chen **HEARING DATE:** October 22, 2009
 3. **TYPE OF APPLICATION:** Variances
 4. **LOCATION:** 1880 Old Hudson Road, SW Corner at Hazel
 5. **PIN & LEGAL DESCRIPTION:** 352922320087, CHEN'S ADDITION LOT 2 BLK 1
 6. **PLANNING DISTRICT:** 1 **PRESENT ZONING:** B3
 7. **ZONING CODE REFERENCE:** § 61.601; 61.202(b); 66.231; 67.402 (e) (1); 64.502 (a) (1) and (6)
 8. **STAFF REPORT DATE:** October 13, 2009 **BY:** Penelope Simison
 9. **DATE RECEIVED:** September 29, 2009 **60 DAY DEADLINE FOR ACTION:** November 28, 2009
-

- A. **PURPOSE:** Variances of front yard setback for covered entrance (port-cochere) (25 feet required, 18 feet, 7 inches proposed), parking location in front yard within White Bear Avenue Overlay District, and sign area (48 sq. ft. permitted, 102.3 sq. ft. proposed)
- B. **PARCEL SIZE:** 108509 sq. ft.
- C. **EXISTING LAND USE:** Vacant two-story motel
- D. **SURROUNDING LAND USE:**
North: Multiple-family residential, offices, parking (RM2, B2, VP1)
East: Vacant MN-DOT property (RM2)
South: Interstate highway (B3)
West: Seven-story hotel, parking (B3)
- E. **ZONING CODE CITATION:** §61.202(b) authorizes the planning commission to grant variances when related to permits, using the required findings of §61.601; §66.231 establishes dimensional standards in residential districts; §67.402 (e) (1) regulates accessory parking in the White Bear Avenue Overlay District; § 64.502 (a) (1) establishes standards for identification signs in multiple-family residential districts; § 64.207 establishes conditions under which a variance from the strict application of the code governing signs may be permitted.
- F. **HISTORY/DISCUSSION:** The Planning Commission on September 4, 2009, recommended rezoning of the property from B3 General Business to RM2 Medium-Density Multiple-family Residential (#09-252-0587) and approved a Conditional Use Permit for assisted living facility and a variance of side yard setbacks for the parking lot on the east side of the building (#09-252-744). The City Council held a public hearing on the rezoning on October 7, 2009, and approved a motion of intent to adopt the ordinance; action on the ordinance is pending. Subsequently staff realized that three additional variances needed to enable the facility to be developed were inadvertently omitted from the earlier filing.
- G. **DISTRICT COUNCIL RECOMMENDATION:** District 1 has sent an email, attached, supporting the proposed variances.
- H. **FINDINGS:**
 1. The applicant proposes to construct and maintain an assisted living and memory care facility with 78 units. Three of the units will have two beds, for a total of 81 beds. The 67,000 s.f. building will be three stories, at a height of 45 feet. The applicant proposes to provide 34 parking spaces, located along the north perimeter of the building and in the east side yard, adjacent to the property line.
 2. The applicant is seeking variances to accommodate the construction and maintenance of the facility, as follows:
 - (a) §66.231 establishes dimensional standards in residential districts. The required front yard in the RM2 district is 25 feet. The design of the facility includes a covered entrance to the building (a porte cochere) that extends 6.42 feet into the required front yard.

(b) §67.402 (e) (1) requires that on-site parking be located at the rear or side of the principal structure. The design of the facility includes on-site parking in front of the principal structure.

(c) § 64.502 (a) (1) establishes standards for identification signs in multiple-family residential districts. The code permits a total of 48 s.f. of signage on the property. The proposed variance is 54.3 s.f. The applicant proposes a total of 102.3 square feet of signage, including a 31.5 s.f. sign fronting Old Hudson Road, a 52.8 s.f. sign fronting Highway 94, and an 18 s.f. freestanding sign (nine square feet on each sign face) in the landscaped area in front of the building.

3. Section 61.601 sets out the required findings for a variance of the Zoning Code:

(a) *The property in question cannot be put to a reasonable use under the strict provision of the code.*

This finding is satisfied. Previous zoning cases, noted above, determined the assisted living and memory care facility is a reasonable use for the property. The applicant wishes to provide a covered entrance to the building as a shelter for residents and their guests. In addition, there is a Fire Department easement along the southern portion of the site that provides emergency access to the seven-story hotel to the west. Nothing is permitted in the easement and it cannot be eliminated. The lot is rectangular, long and narrow, with the long side parallel to the front and rear property lines, which does not allow sufficient space for on-site parking at the rear of the principal structure. Consequently, on-site parking cannot be located at the rear of the principal structure, nor can the building be moved further south so that the covered entrance would lie outside the front yard. (A separate variance, #09-252-744, allows a portion of the required parking in the east side yard; this parking is not located on the Fire Department easement.)

The applicant wishes to provide signs that will be visible to visitors and to deliveries delivering goods for use by residents and staff of the facility.

(b) *The plight of the landowner is due to circumstances unique to his property, and these circumstances were not created by the landowner.*

This finding is satisfied. The Fire Department easement and the topography of the properties to the east and south are circumstances unique to the property and not created by the landowner. The Fire Department easement precludes locating on-site parking at the rear of the principal structure or moving the structure southward so that the covered entrance could lie outside the front yard.

The south and east sides of the property are sloped so that signage will be barely visible to passersby. On the north side of the property, fronting Old Hudson Road, signage is needed to direct visitors and deliveries of goods for residents to the facility.

(c) *The proposed variance is in keeping with the spirit and intent of the code, and is consistent with the health, safety, comfort, morals and welfare of the inhabitants of the City of Saint Paul.*

This finding is satisfied. The intent of the code is to provide a reasonable distance between the front property line and the principal structure in a multiple-family residential district. The principal structure is 59.6 feet from the front property line. The proposed variance of 6.42

feet for the covered entrance is consistent with the spirit and intent of the code to provide an adequate front yard for residential buildings in the RM2 district. The intent of the White Bear Avenue Overlay District is to enhance livability of the area and to reduce adverse parking conditions. The applicant will provide extensive landscaping within the required front yard setback between the front property line and the on-site parking in front of the principal structure, as depicted on the site plan dated August 19, 2009.

Signage is permitted to identify residential properties in the RM2 district, and the proposed variance is in keeping with the spirit and intent of the code to allow visitors and deliveries of goods for residents to locate the facility easily.

- (d) *The proposed variance will not impair an adequate supply of light and air to adjacent property, nor will it alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area.*

This finding is satisfied. The proposed variances will not impair an adequate supply of light and air to adjacent properties or alter the essential character of the area. The covered entrance, which will be open on three sides, will be situated roughly at the midpoint of the property and at some distance from adjacent properties. The principal structure is 59.6 feet from the street and there is extensive landscaping along the front property line, acting as a buffer between the facility, the street and adjacent properties.

Two identification signs will be affixed to the building, on the covered entrance and above the windows on the south side. The freestanding sign will be in the landscaped area at the westerly end of the property, near the front property line.

- (e) *The variance, if granted, would not permit any use that is not permitted under the provisions of the code for the property in the district where the affected land is located, nor would it alter or change the zoning district classification of the property.*

This finding is satisfied. The proposed variances would not permit any use not already permitted under the provisions of the code for the property. Covered entrances are permitted for residential structures and parking is required in the RM2 district. The Fire Department easement and the rectangular shape of the property preclude placement of the on-site parking at the rear of the principal structure.

Residential properties are permitted signage, and the code stipulates the amount of signage allowed. The proposed variance will increase the amount of square footage in the three signs so as to direct visitors and deliveries of goods to the facility.

- (f) *The request for variance is not based primarily on a desire to increase the value or income potential of the parcel of land.*

This finding is satisfied. The applicant desires to provide shelter at the front entrance to the facility for residents and visitors, not to increase the value or income potential of the parcel. The Fire Department easement precludes placement of on-site parking at the rear of the building. The signage will direct visitors and deliveries of goods for residents to the facility.

4. Section 64.207 sets out conditions for a variance from the strict enforcement of the requirements of the Zoning Code regarding signs:

The variance, if granted, is the result of unusual conditions pertaining to sign needs for a specific building or property, would not create a hazard, would not be objectionable to adjacent property owners, would not adversely affect residential property through excessive glare and lighting and would be in keeping with the general character of the surrounding area.

This finding is satisfied. There are signs affixed to the front and rear of the building, visible from the street and the interstate highway. Both wall signs and the freestanding sign direct visitors and deliveries of goods to the facility. None will create a hazard and all are in keeping with the general character of the surrounding area. The applicant proposes to illuminate the signs. There is a possibility the illumination could spill over into adjacent properties to the north.

STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the variances to permit a covered entrance (porte cochere) to intrude into the front yard setback 6.42 feet and to permit onsite accessory parking in front of the principal building in the White Bear Avenue Overlay District, both consistent with the site plan dated August 19, 2009, and to permit 102.3 square feet of identification signs in two wall signs and one freestanding sign, consistent with the site plan dated October 1, 2009, subject to the following condition:

1. Illumination of the wall signs and the freestanding sign, whether internally lit or by lights shining onto the signs, shall be limited to the hours of 8 a.m. to 10 p.m. daily.



APPLICATION FOR ZONING VARIANCE
Department of Safety and Inspections
375 Jackson Street
Suite 220
Saint Paul, MN 55101-1806
General: 651-266-9008
Fax: (651) 266-9099

Zoning office use only
File Number _____
Section _____
Initiative Hearing Date _____
Section (a) _____
City agent _____

APPLICANT

Name DR. LEE CHEN Company STARBOUND ST. PAUL HOTEL, LLC
Address 23545 CRENSHAW BLD., #102
City TORRANCE St. CA Zip 90505 Daytime Phone 310.530.2388
Property Interest of Applicant (owner, contract purchaser, etc) OWNER
Name of Owner (if different) _____ Phone _____

PROPERTY
INFORMATION

Address / Location 1880 OLD HUDSON RD., ST. PAUL, MN 55119
Legal Description LOT 2, BLOCK 1, CHEN'S ADDITION
(attach additional sheet if necessary)
Lot Size 2.49 A Present Zoning B3 Present Use VACANT BLIGHTED BLDG.
Proposed Use PROPERTY WILL BE RE-ZONED TO RM2 FOR SR. ASSISTED LIVING CENTER.

Variance[s] requested:

Supporting Information: Supply the necessary information that is applicable to your variance request, provide details regarding the project, and explain why a variance is needed. Duplex/triplex conversions may require a pro forma to be submitted. Attach additional sheets if necessary.

Additional Variances:

1. Variance to permit a porte cochere to intrude into the front yard setback. Reference Section 66.231 of the Code. The required setback is 25 feet. The supporting structure of the proposed porte cochere is set back from the property line 18'-7". See attachment.
2. Variance from the requirements of the White Bear Avenue Overlay District, Section 67.402 (e) (1), which requires that all onsite parking be located in the side or rear yards of the principal building. See attachment.

Attachments as required:



Site Plan



Attachments



Pro Forma

Applicant's Signature

[Signature]

Date

9-23-09

From: <district1council@aol.com>
To: <Penelope.Simison@ci.stpaul.mn.us>
Date: 10/7/2009 1:44 PM
Subject: Zoning file #09-252-587 - 1880 Old Hudson Rd.

The District 1 Community Council has no objection to the variances requested for front setback, of the White Bear Overlay prohibition on front parking, or for total signage at the 1880 Old Hudson "Comforts of Home" site. Given the community feedback we received, these variances are acceptable to the surrounding neighbors.

The proposed project, with its rezoning, is seen as an asset to our community.

Thank you.

For the District 1 Community Council Land Use Committee,

Betsy Leach
Community Organizer
District 1 Community Council
2090 Conway St., Rm 126
Saint Paul, MN 55119
district1council@aol.com; www.district1council.org
651-501-6345 (v); 651-501-6346 (fax)

PRELIMINARY SET
NOT FOR CONSTRUCTION

F.R.I.S.B.I.E.
ARCHITECTS

COMFORTS OF HOME

PROPOSED
SENIOR
LIVING

180 OLD HUDSON RD
SAINT PAUL, MN

PROJECT NO. 0003

1 OCTOBER 2008

HAZEL
STREET

HUDSON ROAD
(FORMERLY HUDSON ROAD)
(UNPAVED PUBLIC STREET)

OLD HUDSON ROAD

PROPOSED
SENIOR
ASSISTED LIVING
20,402 S.F. FOOTPRINT
THREE LEVELS
75 UNITS

34 PARKING STALLS

1000 OPEN
TOP CHILLER
AND CONDENSER
PACAGE UNIT

OUTDOOR SPACE
253'-2"

PRIME ACCESS
PRIME-OWNER REINFORCED GRASS ERD

INTERSTATE HIGHWAY NO. 94

INTERSTATE HIGHWAY 94



COMFORTS OF HOME
ST. PAUL SITE PLAN
NOT TO SCALE

F.R.I.S.B.I.E.
ARCHITECTS, INC.
213 N. Second St., Suite 204 | River Falls, WI 54402

19 AUGUST 2008
**Comforts
OF HOME**

PRELIMINARY SET
NOT FOR CONSTRUCTION

R · I · S · B · I · E
A R C H I T E C T S

H

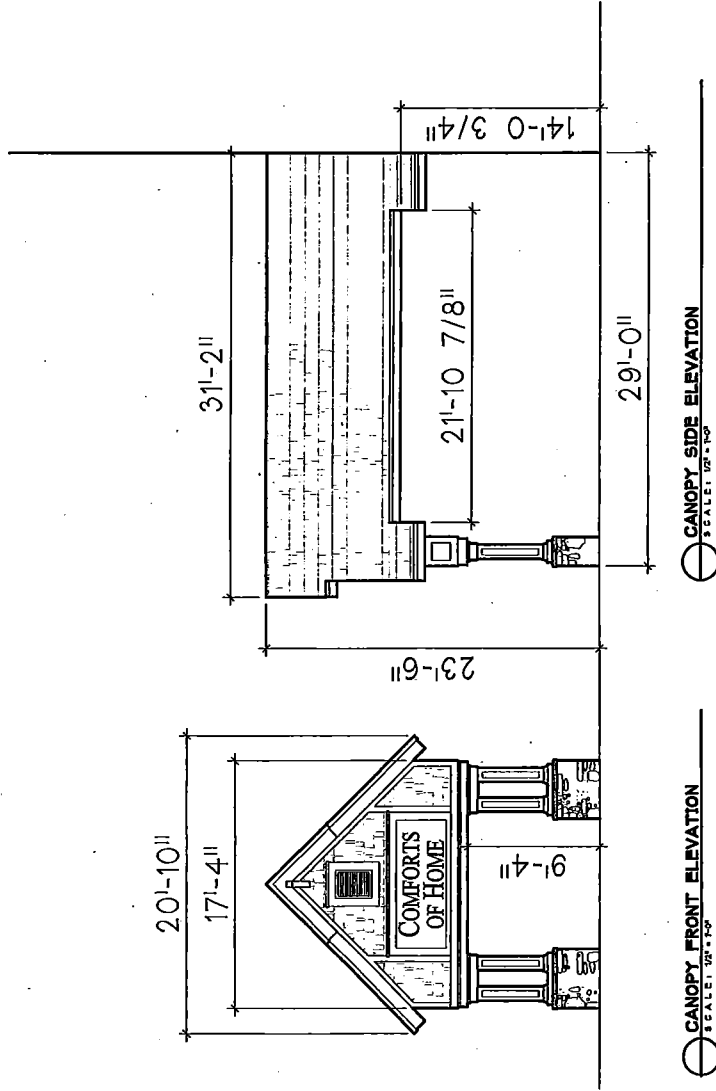
COMFORTS
OF HOME

PROPOSED
SENIOR
LIVING

185 OLD HUDSON RD
SAINT PAUL, NY

PROJECT NO. 0028

1 OCTOBER 2009





APPLICATION FOR ZONING VARIANCE

Department of Safety and Inspections

375 Jackson Street

Suite 220

Saint Paul, MN 55101-1806

General: 651-266-9008

Fax: (651) 266-9099

Zoning office use only

File Number: _____

Fee: \$ _____

Tentative Hearing Date: _____

Section(s) _____

City agent _____

APPLICANT

Name DR. LEE CHEN Company STARBOUND ST. PAUL HOTEL, LLC

Address 23545 CRENSHAW BLVD., #102

City TORRANCE St. CA Zip 90505 Daytime Phone 310-530-2388

Property Interest of Applicant (owner, contract purchaser, etc) OWNER

Name of Owner (if different) _____ Phone _____

PROPERTY INFORMATION

Address / Location 1880 OLD HUDSON RD., ST. PAUL, MN 55119

Legal Description LOT 2, BLOCK 1, CHEN'S ADDITION

(attach additional sheet if necessary)

Lot Size 2.49 A Present Zoning B3 Present Use VACANT BUGHTED BLDG.

Proposed Use WILL BE RE-ZONED TO RM2 FOR SENIOR ASSISTED LIVING CENTER.

Variance[s] requested: SIGNAGE SQUARE FOOTAGE.

Sign Variance:

1. Variance to increase the allowed square footage of signage from twenty four (24) square feet fronting Old Hudson Road and twenty four square feet fronting Highway 94. Total allowed sign area is 48 square feet with two (2) signs allowed on each street frontage. Allowed square footage is based on the proposed use classified as a "multi family structure" within a residential RM2 district.

Proposed signage is for three (3) signs totaling 102.3 SF.

Wall sign 'A' fronting Old Hudson Road = 31.5 SF.

Wall sign 'B' fronting Hwy 94 = 52.8 SF.

Monument sign 'C' at entry = 18 SF. (9 SF each face)

See attachments showing signs, sign locations, sign dimensions and sign calculations.

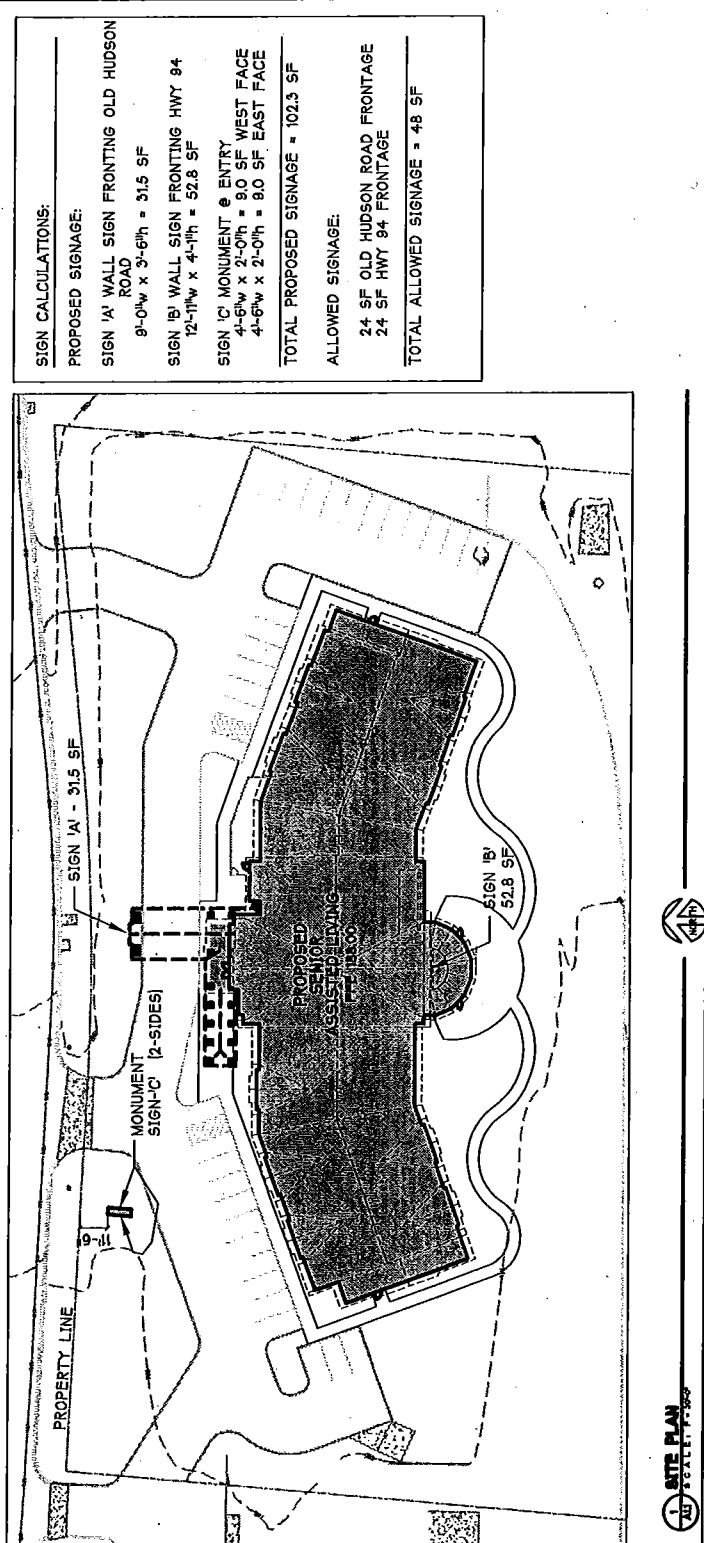
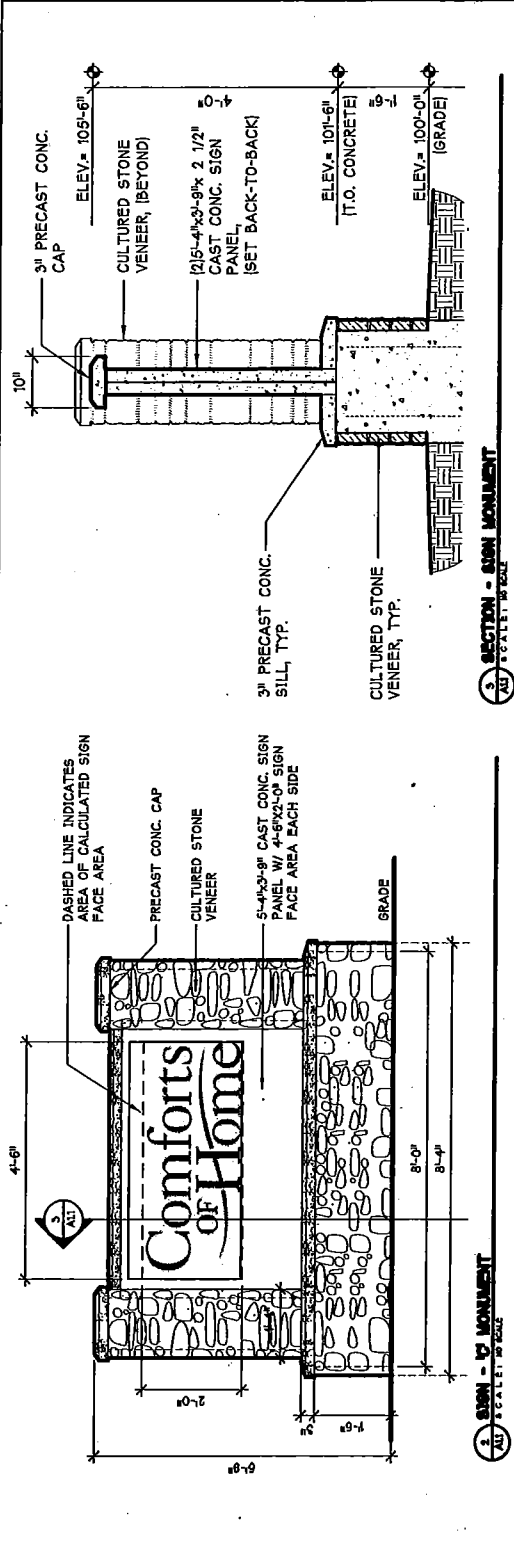
Attachments as required:

☒ Site Plan

☒ Attachments

☒ Pro Forma

Applicant's Signature _____ Date _____

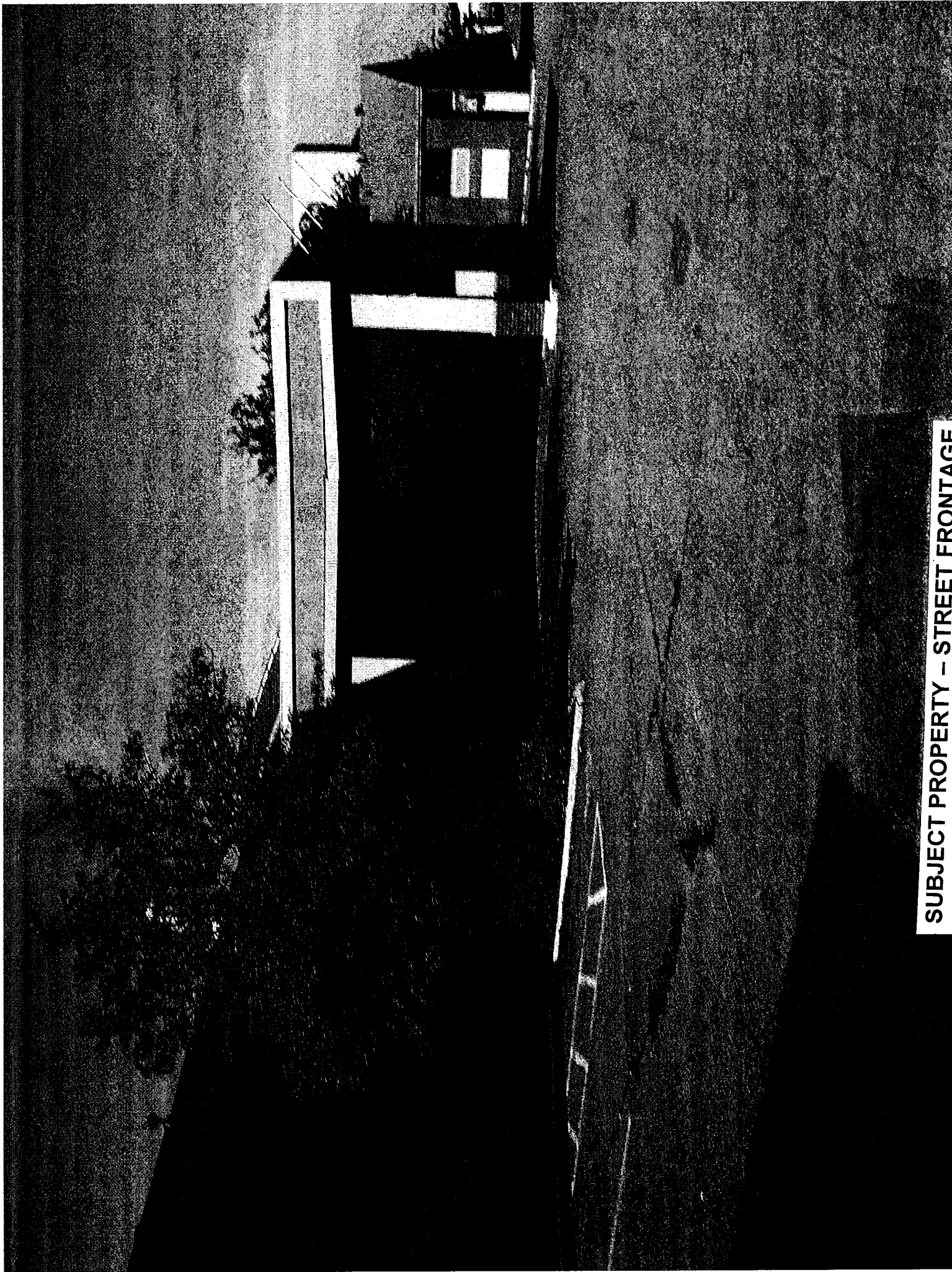


R · I · S · B · I · E
A R C H I T E C T S

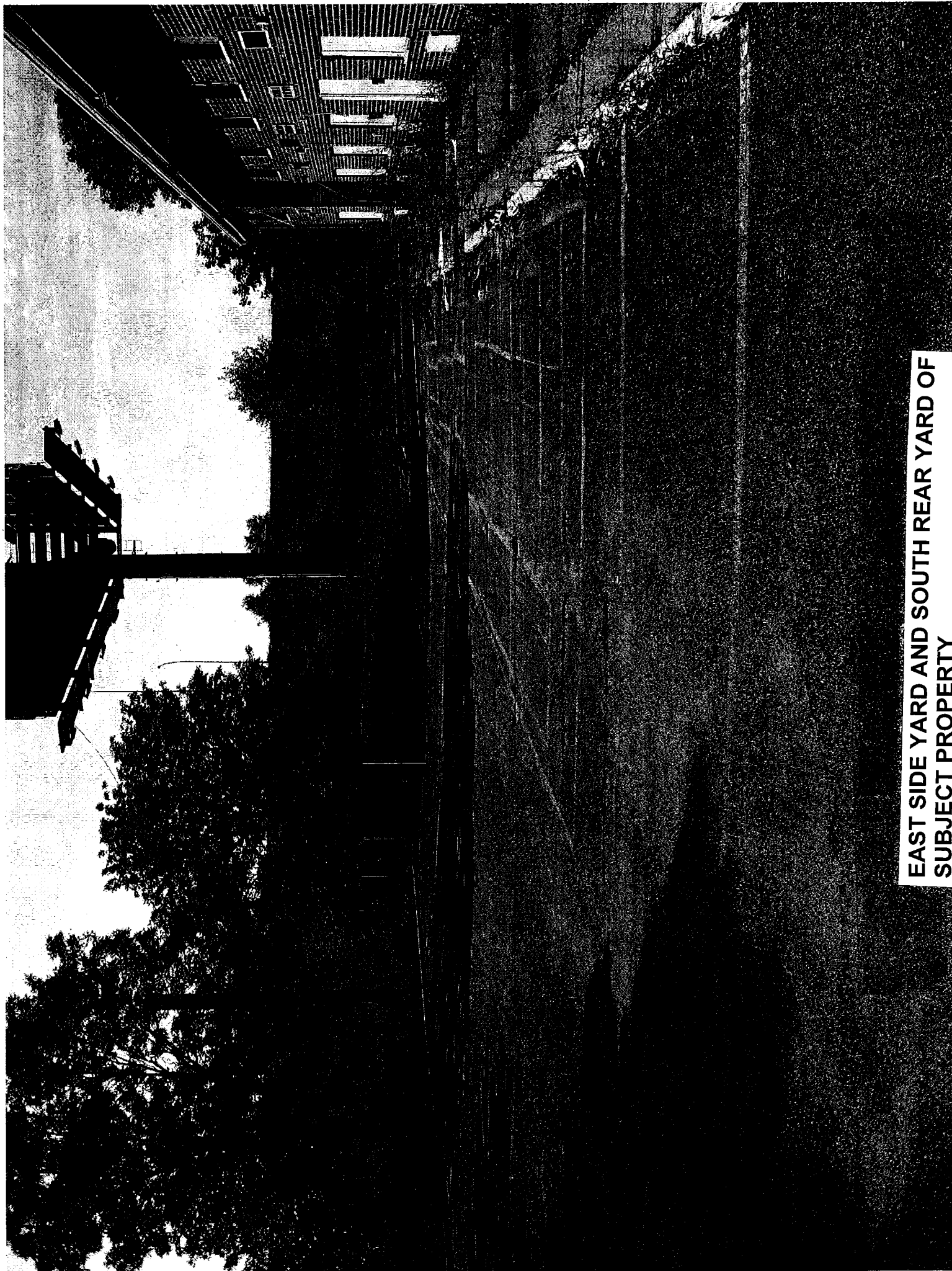
PROJECT NO. D01208

WALL SIGNAGE

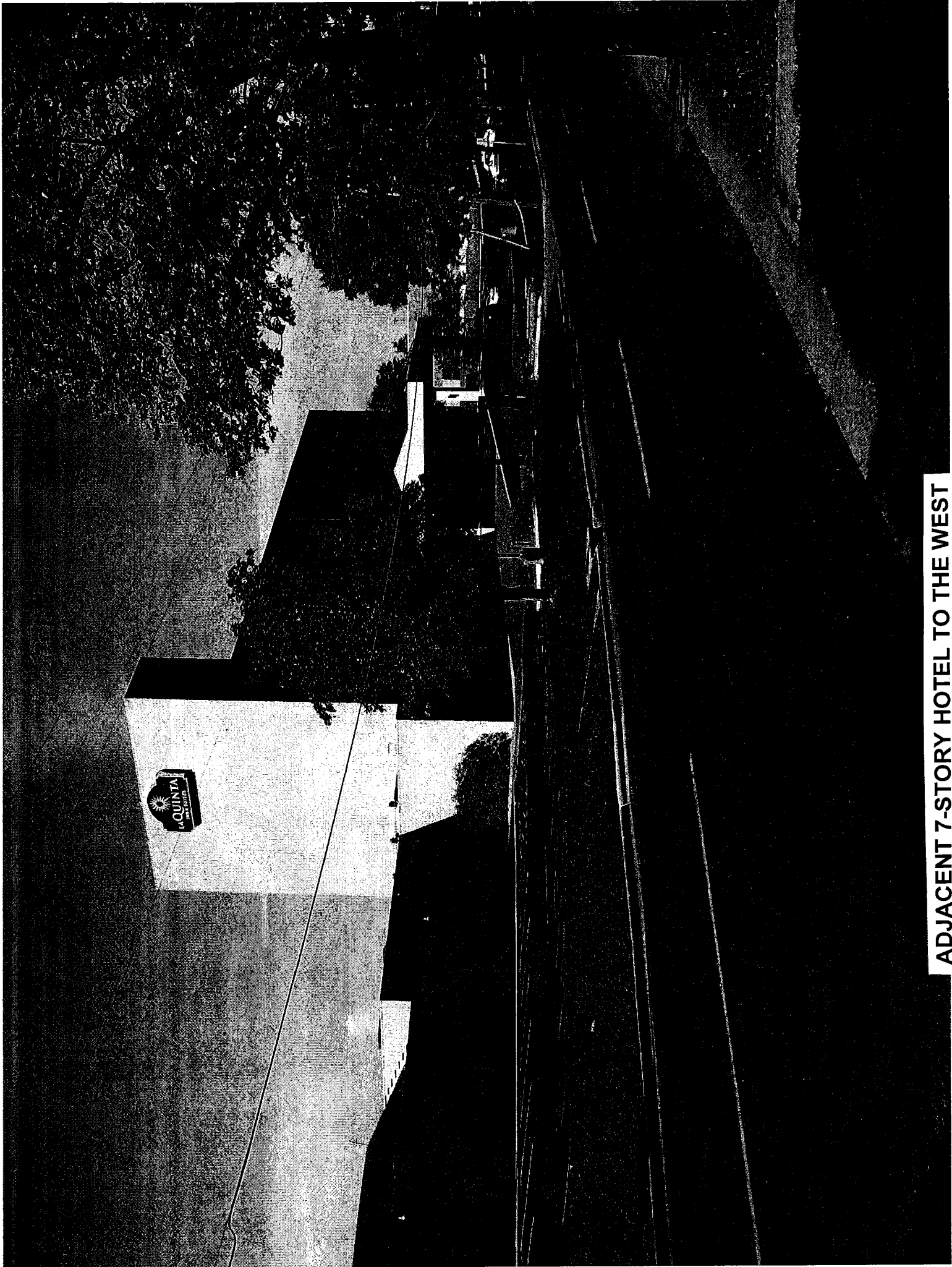




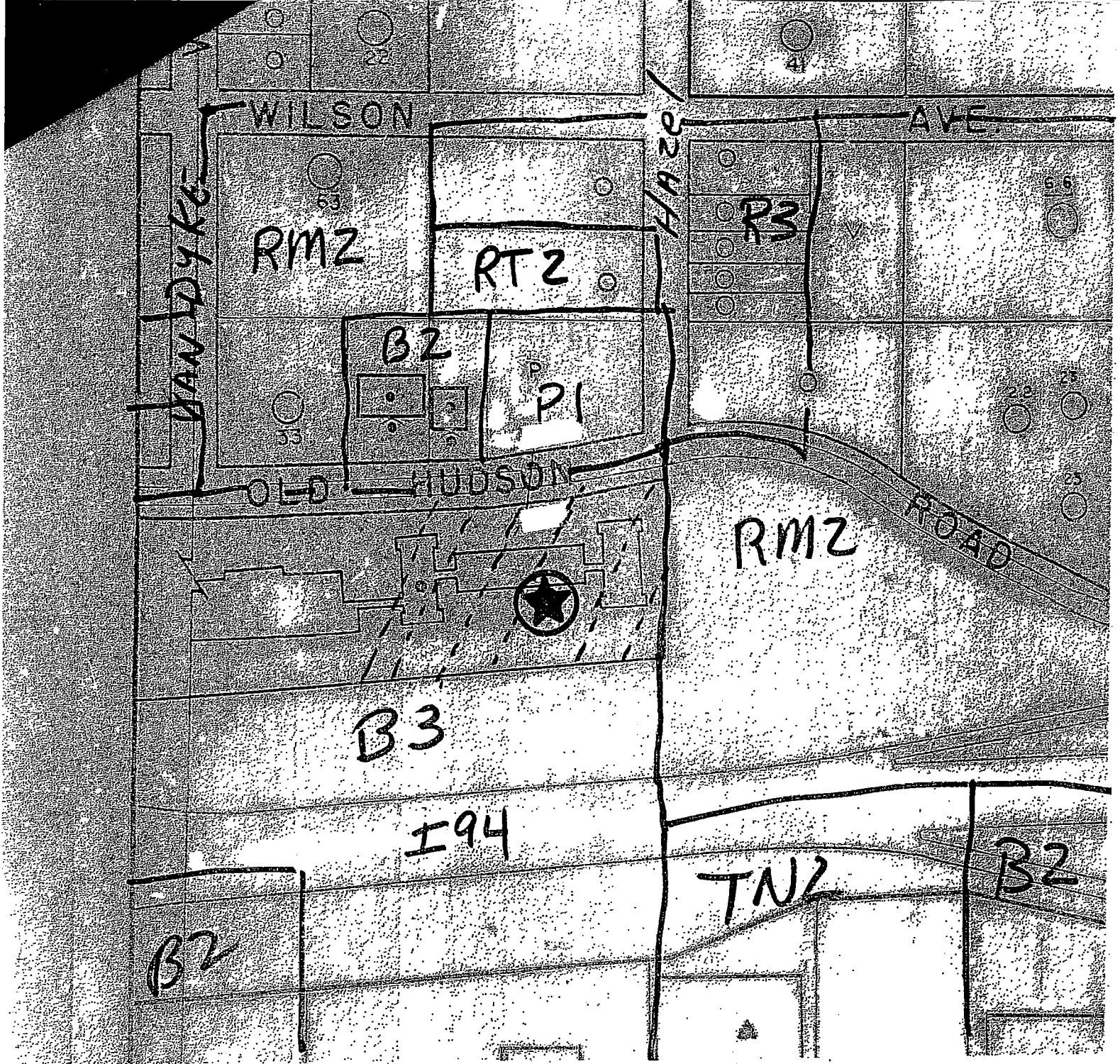
SUBJECT PROPERTY - STREET FRONTAGE



EAST SIDE YARD AND SOUTH REAR YARD OF
SUBJECT PROPERTY



ADJACENT 7-STORY HOTEL TO THE WEST



APPLICANT Dr. Lee Chin
 PURPOSE PC-Variance
 FILE # 09-280240 DATE 10-1-09
 PLNG. DIST. 1 MAP # 24
 SCALE 1"=400'

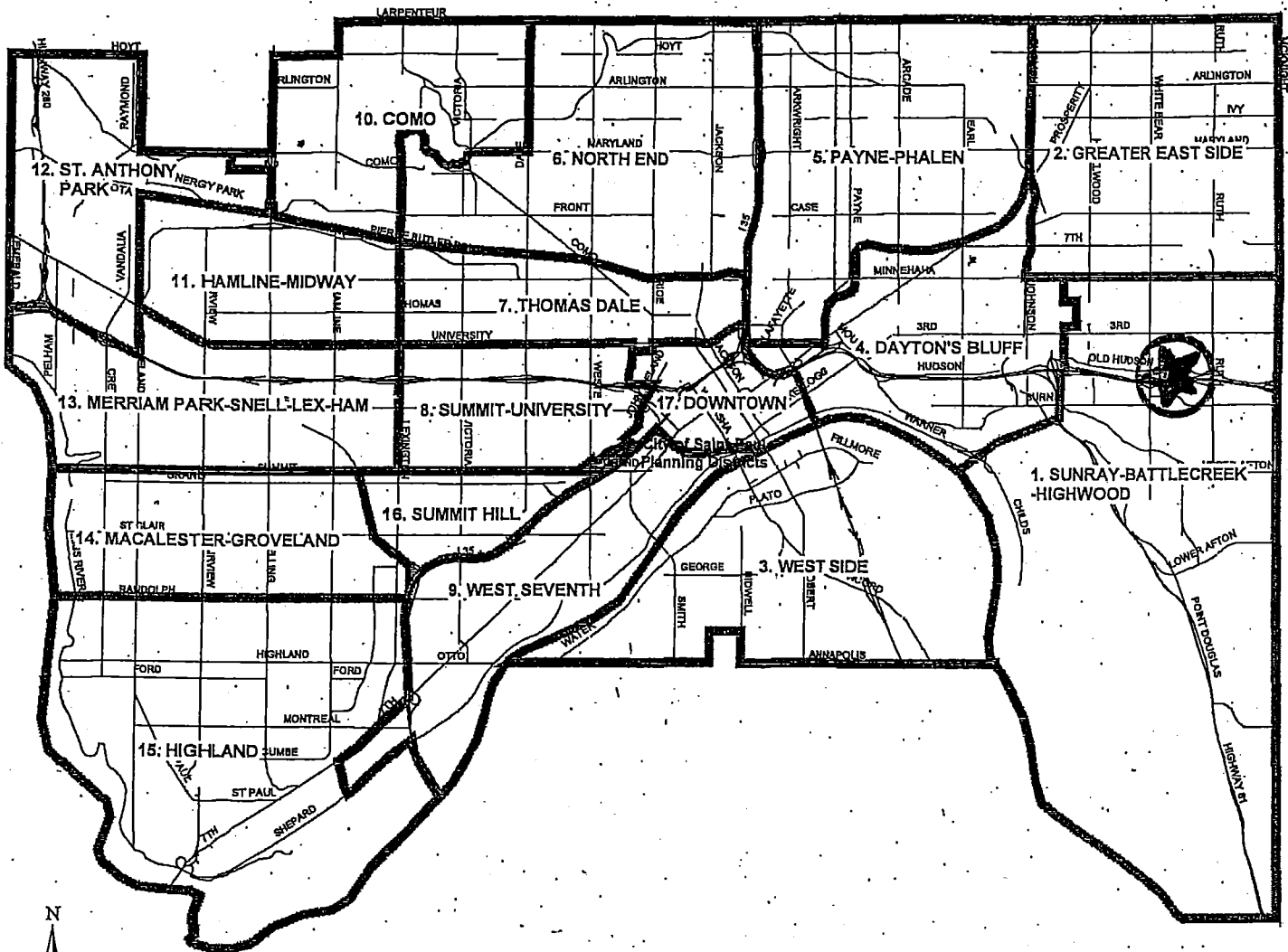


LEGEND

- zoning district boundary
- subject property
- one family
- two family
- multiple family
- commercial
- industrial
- vacant

north

CITIZEN PARTICIPATION DISTRICTS



CITIZEN PARTICIPATION PLANNING DISTRICTS

1. SUNRAY-BATTLECREEK-HIGHWOOD
2. GREATER EAST SIDE
3. WEST SIDE
4. DAYTON'S BLUFF
5. PAYNE-PHALEN
6. NORTH END
7. THOMAS-DALE
8. SUMMIT-UNIVERSITY
9. WEST SEVENTH
10. COMO
11. HAMLINE-MIDWAY
12. ST. ANTHONY
13. MERRIAM PK.-LEXINGTON HAMLINE
14. GROVELAND-MACALESTER
15. HIGHLAND
16. SUMMIT HILL
17. DOWNTOWN

#09-280240